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HEWLETT PACKARD COMPANY
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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

COPY MAILED

SEP 12 2007

OFFICE OF PETITIONS

In re Application of :
Sadler et al. :
Application No. 10/662,178 : DECISION ON PETITION
Filed: 09/15/2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 10001445-4 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 10 July, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37

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

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2836 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/662,178	09/15/2003	2836	750	10001445-4	16	3

CONFIRMATION NO. 1351

CORRECTED FILING RECEIPT

22879
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

OC000000025791699

Date Mailed: 09/12/2007

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

Applicant(s)

Ray G. Sadler, Plano, TX;
Shaun L. Harris, McKinney, TX;

Power of Attorney: The patent practitioners associated with Customer Number **022879**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/171,915 06/14/2002 PAT 6,654,265
which is a CON of 09/940,973 08/28/2001 PAT 6,430,068
which is a DIV of 09/563,003 04/29/2000 PAT 6,356,470

Foreign Applications

If Required, Foreign Filing License Granted: 12/17/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/662,178

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Dual input, hot swappable dual redundant, enhanced N+1 AC to DC power system

Preliminary Class

307

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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MICHAEL J. BUCHENHORNER
8540 S.W. 83 STREET
MIAMI, FL 33143

Mail Date: 04/20/2010

Applicant	: Gheorghe C. Cascaval	: DECISION ON REQUEST FOR
Patent Number	: 7596680	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/662,179	: 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 **1003** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

EMERY L. TRACY
P.O. BOX 1518
BOULDER, CO 80306

In re Application of :
Jeffrey A. HAMILTON et al. :
Application No. 10/662,182 : DECISION ON PETITION
Filed: September 12, 2003 :
Attorney Docket No. E008.PAT-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 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, November 16, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 17, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $770.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of November 16, 2005, is accepted as having been unintentionally delayed.

The power of attorney filed by the applicants/inventors with the petition on October 15, 2007 has been accepted and made of record.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 2612 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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ANGENEHM LAW FIRM
P.O. BOX 48755
COON RAPIDS, MN 55448-0755

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OFFICE OF PETITIONS

In re Application of	:	
Paul Freidlund	:	
Application No. 10/662,192	:	DECISION ON PETITION
Filed: September 15, 2003	:	TO WITHDRAW
Attorney Docket No. F597-002-PAT	:	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 10, 2006.

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

A review of the file record indicates that the power of attorney to Paul Friederichs has been revoked by the applicant of the patent application on March 3, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

This application is being referred to Technology Center AU 3725.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON, OH 44718-3615

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TED TORGRIMSON
OID# 207919
970 PICKETT ST. N.
BAYPORT MN 55003-1490

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Ted Michael Torgrimson
Application No. 10/662,201
Filed: September 15, 2003
Title of Invention: CLAMP STAND

This is a decision on the petition filed January 26, 2004, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of September 15, 2003, with Figures 1-3 described in the specification as a part of the original disclosure.

The petition is **DISMISSED**.

On September 15, 2003, the application was filed.

On December 22, 2003, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the application had been accorded a filing date of September 15, 2003, but that Figures 1-3 described in the specification appeared to have been omitted from the application. A two (2) month period for reply was set.

In response, on January 26, 2004, the present petition was filed, accompanied by one (1) sheet of drawings containing Figures 1-3. Petitioner argues that the original copy of Figures 1-3 was filed with the application on September 15, 2003 and requests that the application be accorded a filing date of September 15, 2003 with Figures 1-3 included.

Petitioner's argument has been considered, but is not persuasive. The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the papers originally filed reveals that, *inter alia*, one (1) sheet of drawings containing Figures 4-6 was received on September 15, 2003. No sheets of drawings containing Figures 1-3 was filed on September 15, 2003, since no such pages of drawings are present among the application papers received on that date. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

It is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[1] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. However, due to the absence in the record of a postcard receipt itemized with respect to the drawings that bears a USPTO date stamp of September 15, 2003, showing that one (1) sheet of drawings containing Figures 1-3 were received in the USPTO on

[1] The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

September 15, 2003, the application cannot be accorded a filing date of September 15, 2003, with Figures 1-3 as a part of the original disclosure.

The application will be processed and examined using only the application papers present on September 15, 2003. The copy of the one (1) drawing sheet containing Figures 1-3 supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

The Office of Initial Patent Examination will be notified to process the application with a filing date of September 15, 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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/662,210	09/11/2003	2186	876	RSW920030215US1	5	27	3

CONFIRMATION NO. 9116

CORRECTED FILING RECEIPT

OC000000011774095

Gerald R.Woods
IBM Corporation
T81/503
PO Box 12195
Research Triangle Park, NC 27709

Date Mailed: 01/28/2004

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)

Daniel L. Krissell, Morrisville, NC;
Robert C. Leah, Cary, NC;
Paul F. McMahan, Apex, NC;

Assignment For Published Patent Application

International Business Machines Corporation, Armonk, NY;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/18/2003

Projected Publication Date: 03/17/2005

Non-Publication Request: No

Early Publication Request: No

Title

Selectively accepting cache content

Preliminary Class

711

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

GRANTED

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

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

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

NOT GRANTED

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

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7-5-06

Patent No. : 6,935,827
Inventor(s) : Delaurier
Issued : August 30, 2005
Title : ROUND BALE TRAILER
Docket No. : 1993.27us03

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or (703) 305-8309

Michael A. Bondi
Patterson, Thuente, Skaar & Christnsen
4800 IDS Cente
80 South 8th Street
Minneapolis, Minnesota 55402-2100

ej

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GRAYBEAL JACKSON HALEY LLP
SUITE 350
155-108TH AVENUE N.E.
BELLEVUE, WA 98004-5973

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of :
Bernard Plessier et al. :
Application No. 10/662,225 : ON PETITION
Filed: September 12, 2003 :
Attorney Docket No. 2110-49-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 25, 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 October 18, 2006. A Notice of Abandonment was subsequently mailed on June 1, 2007.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee submitted with the petition on May 25, 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 referred to Technology Center AU 2188 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

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

Lyle J. Christiansen
701 Imperial Drive
Morris MN 56267

In re Application of: CHRISTIANSEN :
Appl. No.: 10/662,244 : DECISION ON PETITION
Filed: September 13, 2003 :
For: ALUMINUM CAN CRUSHING KIT :

This is a decision on the petition filed on July 15, 2005 by which petitioner request supervisory review of the Advisory action mailed July 7, 2005. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is denied.

This application comes before the Technology Center Director for review of prosecution; in particular for review of the office letter (advisory action) of July 7, 2005. Petitioner quotes the office letter which states in part " 'A bottom cover which has an attached strike plate' ...is a new limitation [that] has never been claimed... as such limitation changes the scope of the previous claims; therefore it raises issues that would require further search. " Petitioner notes prior claim 3 of amendment A entered on March 1, 2005 and treated in the final rejection contained the language "...with a top cover and a bottom cover and an attached strike plate...". Petitioner submits that since the strike plate had been previously claimed, it does not raise a new issue that would require further search. Petitioner submits that his application is therefore in allowable form, which is construed to be the relief requested by the petition.

Review of the application and of the claims shows that on March 1, 2005 an amendment was entered presenting claim 3 containing the language "...an elongated container with a top cover and a bottom cover and an attached strike plate...". This language defines a container having these three elements and does not define any relation as to direct or indirect attachment of the strike plate to the container. This claim was fully treated in the final office action of May 18, 2005. The proposed after final amendment submitted by petitioner on May 26, 2005 contained the language "...an elongated container with a top cover and a bottom cover *which has* an attached strike plate...". This language defines a container having these three elements and further defines the strike plate to be attached (directly or indirectly) to the bottom cover. Clearly this requirement of the strike plate being attached to the bottom cover is new. That petitioner may have intended the claim to read this way prior and is therefore of the opinion that he has not changed the claim scope is not probative. Patent examiners are charged with giving the claims the broadest reasonable interpretation of the claim language in light of the specification and as

such claim draftsmanship requires great precision. In the instant application, a container having three elements is considered to be of different scope when compared to a container having two elements with one of the two elements having a third element attached.

Entry of amendments after final rejection is not a matter of right. 37 CFR 1.116. The review of the record shows that the examiner was in compliance with proper examining practice as set forth in MPEP 714.13 in refusing entry of the after final amendment submitted May 26, 2005. The examiner did not abuse his discretion or act in an arbitrary or capricious manner in denying entry of the proposed claims after final for the reasons stated. Further, claims 3 and 4 (pending) remain finally rejected under 35 USC 102(b) as being anticipated by the patent to Rodolico. Applications cannot be passed to allowance until a point in time where all objections and rejections are overcome. Therefore there is no basis for granting the relief requested.

PETITION DENIED.

Frederick R. Schmidt, Director
Technology Center 3700

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Lyle J. Christiansen
701 Imperial Drive
Morris MN 56267

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JUN 18 2009

OFFICE OF PETITIONS

In re Application of :
Lyle J. CHRISTIANSEN :
Application No. 10/662,244 : ON PETITION
Filed: September 16, 2003 :
Attorney Docket No.: :

This is a decision on the petition filed February 16, 2006 under 37 CFR 1.181(a)(3) requesting that the Director exercise his supervisory authority and overturn the decision of the Director, Technology Center 3700 (Technology Center Director), dated February 8, 2006, which refused to compel the entry of the amendment after final filed May 26, 2005.

The petition to overturn the decision of the Technology Center Director dated February 8, 2006, is **DENIED**[1].

BACKGROUND

The instant application was filed September 16, 2003.

On February 9, 2005 a non-final Office action was mailed.

On March 1, 2005 a response was filed.

On May 18, 2005 a final Office action was mailed.

On May 26, 2005 an amendment after final Office action was filed.

On June 13, 2005 an Advisory Action denying entry of the amendment filed May 26, 2005 was mailed.

On June 23, 2005 a request for reconsideration of the Advisory Action of June 13, 2005 was filed.

On July 7, 2005 an Advisory Action denying entry of the amendment filed May 26, 2005 was mailed

On July 15, 2005 a petition requesting review of the Advisory Action of July 7, 2005 was filed.

On February 8, 2006 a decision dismissing the petition was mailed.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

37 CFR 1.113 states:

> (a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicants, or for ex parte reexaminations filed under § 1.510, patent owner's reply is limited to appeal in the case of rejection of any claim (§ 1.191), or to amendment as specified in § 1.114 or § 1.116. Petition may be taken to the Commissioner in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). Reply to a final rejection or action must comply with § 1.114 or paragraph (c) of this section. For final actions in an inter partes reexamination filed under § 1.913, see § 1.953.
> (b) In making such final rejection, the examiner shall repeat or state all grounds of rejection then considered applicable to the claims in the application, clearly stating the reasons in support thereof.
> (c) Reply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form.

37 CFR 1.116 states:

> (b) After a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913, amendments may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action. Amendments presenting rejected claims in better form for consideration on appeal may be admitted. The admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under

§ 1.135, or the reexamination from termination. No amendment can be made in an inter partes reexamination proceeding after the right of appeal notice under § 1.953 except as provided for in paragraph (d) of this section.

MPEP 706.07 states:

Before final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection. Switching from one subject matter to another in the claims presented by applicant in successive amendments, or from one set of references to another by the examiner in rejecting in successive actions claims of substantially the same subject matter, will alike tend to defeat attaining the goal of reaching a clearly defined issue for an early termination, i.e., either an allowance of the application or a final rejection.

While the rules no longer give to an applicant the right to "amend as often as the examiner presents new references or reasons for rejection," present practice does not sanction hasty and ill-considered final rejections. The applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off in the prosecution of his or her application. But the applicant who dallies in the prosecution of his or her application, resorting to technical or other obvious subterfuges in order to keep the application pending before the primary examiner, can no longer find a refuge in the rules to ward off a final rejection.

The examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal. However, it is to the interest of the applicants as a class as well as to that of the public that prosecution of an application be confined to as few actions as is consistent with a thorough consideration of its merits. Neither the statutes nor the Rules of Practice confer any right on an applicant to an extended prosecution; Ex parte Hoogendam, 1939 C.D. 3, 499 O.G.3, 40 USPQ 389 (Comm'r Pat. 1939).

STATEMENT OF GROUNDS

In making the final rejection, all outstanding grounds of rejection of record should be carefully reviewed, and any such grounds relied on in the final rejection

> should be reiterated. They must also be clearly developed to such an extent that applicant may readily judge the advisability of an appeal unless a single previous Office action contains a complete statement supporting the rejection.
>
> However, where a single previous Office action contains a complete statement of a ground of rejection, the final rejection may refer to such a statement and also should include a rebuttal of any arguments raised in the applicant's reply. If appeal is taken in such a case, the examiner's answer should contain a complete statement of the examiner's position. The final rejection letter should conclude with Form Paragraph 7.39.

MPEP 714.12 states:

> Once a final rejection that is not premature has been entered in an application, applicant or patent owner no longer has any right to unrestricted further prosecution. This does not mean that no further amendment or argument will be considered. Any amendment that will place the application either in condition for allowance or in better form for appeal may be entered. Also, amendments complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(b). Ordinarily, amendments filed after the final action are not entered unless approved by the examiner. See MPEP § 706.07(f), § 714.13 and § 1207.

MPEP 714.13 states:

> It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims.

OPINION

Petitioner seeks reversal of the Technology Center Director's decision of February 8, 2006, on the grounds that the final Office action of May 18, 2005, improperly rejected the claims over the prior art and that the amendment after final filed May 26, 2005 did not raise new issues that would require further search. Accordingly, petitioner further contends that the amendment filed May 26, 2005 should be entered.

Petitioner complains that the examiner has erred in not recognizing as to how the claims distinguish over the prior art. A rejection, or the continuation of a rejection, of a claim(s) cannot be reviewed on petition; rather, as explained in MPEP 1201, the mechanism for having the propriety of a given rejection reviewed is by way of appeal before the Board of Patent Appeals and Interferences under 35 U.S.C. § 134 and 37

CFR 41.31. The issues of whether e.g., the examiner properly analyzed the claims in light of the specification disclosure before making the rejection(s), or whether the rejections over prior art were properly maintained relate to the merits of those rejections and such can only be considered on appeal and will not be considered on petition. See 37 CFR 1.181(a); see also Boundy v. U.S. Patent & Trademark Office, 73 USPQ2d 1468 (DC Eva 2004), appeal dismissed, 2004 U.S. App. LEXIS 26384 (Fed. Cir. 2004). It is well settled that the Director will not, on petition, usurp the functions or impinge upon the jurisdiction of the Board of Patent Appeals and Interferences. See In re Dickerson, 299 F.2d 954, 958, 133 USPQ 39, 43 (CCPA 1962); Baylev's Restaurant v. Bailev's of Boston, Inc., 170 USPQ 43, 44 (Comm'r Pat. 1971).

Petitioner further argues the amendment of May 26, 2005 should be entered, as it did not raise new issues that require further search. Given that the Office action was properly made final, 37 CFR 1.116 is controlling on entry *vel non* of the amendment after final filed May 26, 2005. As explained MPEP §§ 714.12, 714.13 entry of the amendment was not a matter of right and, as here, could properly be refused entry by the examiner, for various reasons, including that a proposed amendment raises new issues that would require further consideration or search. In the Advisory Action of July 7, 2005, the examiner noted that the proposed amendment did not clearly place the application in condition for allowance and that the claims as proposed to be amended required further consideration or search.

Furthermore, the Technology Center Director correctly noted: (1) petitioner's contention that on March 1, 2005 an amendment was entered presenting claim 3 containing the language "...an elongated container with a top cover and a bottom cover and an attached strike plate..."; (2) that this language defines a container having these three elements and does not define any relation as to direct or indirect attachment of the strike plate to the container; (3) the proposed after final amendment submitted on May 26, 2005 contained the language "...an elongated container with a top cover and a bottom cover which has as attached strike plate..."; and (4) that this language adds new language requiring the strike plate be attached (directly or indirectly) to the bottom cover.

For the reasons set forth above, the Technology Center Director's decision to refuse petitioners' request to compel the entry of the amendment after final filed May 26, 2005 is not shown to be in clear error.

DECISION

A review of the record indicates that the Technology Center Director did not abuse his discretion or act in an arbitrary and capricious manner in the petition decision of February 8, 2006. The record establishes that the Technology Center Director had a reasonable basis to support his findings and conclusion.

The petition is granted to the extent that the decision of the Technology Center Director of February 8, 2006 has been reviewed, but is denied with respect to making any change therein. As such, the decision of February 8, 2006 will not be disturbed. The refusal to enter the amendment of May 26, 2005, will not be disturbed. The petition is **denied**.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

Andrew Hirshfeld
Acting Deputy Commissioner for
Patent Examination Policy

Cp

[1] This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1002.02

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AUG 27 2008

In re Application of
Fung-Jou Chen et al
Application No. 10/662,251
Filed: September 15, 2003
Attorney Docket No. 27839-1820 (K-C 14,105.4)

ON PETITION

This is a decision on the petition filed May 16, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed January 10, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 11, 2008.

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

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

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Mailed: 2-2-06

In re application of	:	
Lelia Cosimbescu et al	:	DECISION ON
Serial No. 10/662,272	:	PETITION
Filed: September 15, 2003	:	
For: GREEN ORGANIC LIGHT-EMITTING DIODES		

This is a decision on the PETITION UNDER 37 CFR 1.181 FOR ENTRY OF THE AFTER FINAL DECLARATION UNDER RULE 131 filed November 16, 2005.

On October 6, 2005, a final office action was mailed to Applicants. Applicants responded to this office action by filing a 131 declaration attempting to swear behind the applied prior art. The examiner refused entry of the declaration based on untimeliness.

On December 12, 2005, the instant petition under 37 CFR 1.181 was timely filed to request the entry of the after final declaration of November 16, 2005.

Petitioner's position is that the appropriate requirements have been satisfied by applicants and that the declaration should be considered.

DECISION

Section 715.09 of the MPEP concerning Rule 131 declarations states in part:

715.09 [R-3] Seasonable Presentation
Affidavits or declarations under 37 CFR 1.131 must be timely presented in order to be admitted. Affidavits and declarations submitted under 37 CFR 1.131 and other evidence traversing rejections are considered timely if submitted:
(A) prior to a final rejection;
(B) before appeal in an application not having a final rejection;
(C) after final rejection, but before or on the same date of filing an appeal, upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented in compliance with 37 CFR 1.116(e); or
(D) after the prosecution is closed (e.g., after a final rejection, after appeal, or after allowance) if applicant files the affidavit or other evidence with a request for continued examination (RCE) under 37 CFR 1.114 in a utility or plant application filed on or after June 8, 1995; or a continued prosecution application (CPA) under 37 CFR 1.53(d) in a design application.

In the advisory action mailed November 29, 2005, the examiner states that the declaration submitted on November 16, 2005 was untimely and would not be considered. Petitioner urges that good and sufficient reasons have been presented as to why the declaration is necessary and why it was not submitted earlier. The reasons given as to the timeliness requirements state that applicants inadvertently submitted an improper declaration earlier in the prosecution that covered a different species than that which is currently being prosecuted. While it is in the examiner's discretion as to whether or not to consider declarations filed after final rejection, in the instant case, it appears that the declaration should in fact be considered as a matter of fairness. Applicants did attempt to submit a declaration in a timely manner and promptly attempted to rectify the mistake by filing the declaration in question.

Accordingly, the petition for consideration of the declaration filed on November 16, 2005 is **GRANTED.** The application is being forwarded to the examiner for consideration of the declaration.

JMStone

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

Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 30, 2006

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/662282 Patent No.: 6,935,732 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**

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OFFICE OF PETITIONS

In re Application of :
Masafumi Kubota, et al. :
Application No. 10/662,288 : ON PETITION
Filed: September 16, 2003 :
Attorney Docket No. 60188-652 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 30, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2818 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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OFFICE OF PETITIONS

EASTMAN KODAK COMPANY
PATENT LEGAL STAFF
343 STATE STREET
ROCHESTER NY 14650-2201

In re Application of :
Albat et al. :
Application No. 10/662,313 : DECISION ON PETITION
Filed: September 16, 2003 :
Attorney Docket No. 91479MGB :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 13, 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 and to submit corrected formal drawings on or before October 27, 2006, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed July 27, 2006. Accordingly, the date of abandonment of this application is October 28, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400.00, the publication fee of $300.00, and corrected formal drawings, (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in is absence, the undersigned at (571) 272-7099.

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

David Bucci
Petitions Examiner
Office of Petitions

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Mailed: 5-17-07

In re application of :
Kobayashi et al. : DECISION ON
Serial No. 10/662,340 : PETITION
Filed: September 16, 2003 :
For: ELECTROSTATIC CHARGE IMAGE DEVELOPING TONER AND IMAGE FORMING APPARATUS USING THE SAME

This is a decision on the PETITION UNDER 37 CFR 1.181, TO WITHDRAW THE OBJECTION TO THE SPECIFICATION, filed March 12, 2007.

On September 22, 2004, a non-final office action was mailed to applicants. The office action contained an objection to the disclosure, indicating that the sum of the component percentages of the toner material in Example 1 added up to 101%.

A reply to the office action was filed on December 9, 2004. In the reply, applicants amended Example 1 of the specification to change the percentage of styrene-acryl copolymer resin from 85% to 84%, such that the sum of the component percentages of the toner material in Example 1 would add up to 100%.

On July 13, 2005, a final office action was mailed. The examiner stated in the office action that the above amendment to the specification was objected to under 35 USC 132(a) for introducing new matter into the disclosure.

After several iterations of applicant's arguments and examiner's rebuttals on whether or not the December 9, 2004 amendment to the specification contained new matter, on March 12, 2007, the instant petition was filed.

Petitioner has argued that the December 9, 2004 amendment to the specification does not contain new matter and that it would have been apparent to one of ordinary skill in the art that Applicants merely amended the specification to correct a typographical error and did not add new matter to the specification.

DECISION

A petition must be timely filed, as required in 37 CFR 1.181(f), or as required in a specific statue or regulation. A petition not filed within two (2) months from the action complained of may be dismissed as untimely. The mere filing of a petition will not stay the period for replying to an

examiner's action that may be running against an application or act as a stay of other proceedings. 37 CFR 1.181(f).

The petition is **DISMISSED**.

Jacqueline M. Stone

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

SCOTT M. TULINO, ESQ.
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OFFICE OF PETITIONS

In re Application of :
Michael Rhodes :
Application No. 10/662,356 : ON PETITION
Filed: September 16, 2003 :
Attorney Docket No. 6935.15 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 22, 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 December 23, 2006.

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

This matter is being referred to Technology Center AU 2836 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE, SUITE 101
RESTON, VA 20191

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DEC 1 3 2005

OFFICE OF PETITIONS

In re Application of :
Yoshitarou Yazaki et al :
Application No. 10/662,368 :
Filed: September 16, 2003 :
Attorney Docket No. 01-241-DIV

ON PETITION

This is a decision on the petition, filed December 12, 2005 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 28, 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 3729 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Yin, et al.	:	
Application No. 10/662,404	:	ON PETITION
Filed: September 16, 2003	:	
Attorney Docket No. 70566-0016	:	

This is a decision on the "PETITION PURSUANT TO 37 C.F.R. §1.182 FOR CORRECTION OF NAME OF APPLICANT", filed November 4, 2004.

Applicants have filed the petition to change the name of inventor George Yin to Xiang-Dong Yin. Applicants have explained that while Yin goes by the first name of George, his legal Chinese name is Xiang-Dong.

Accordingly, the 37 CFR 1.182 petition is **GRANTED**.

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 13, 2006

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/662,408 Patent No.: 6,999,893

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Approved

John Barlow
SPE
Supervisory Patent Examiner
Technology Center 2800

2863
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09-05-08 **Paper No.:** _____

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/662416 Patent No.: 7180514

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

FOR IFW FILES: X

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.

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

Comments: _____

A. Eisen 2629

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

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SEP 20 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE400
MCLEAN, VA 22102

In re Application of :
Wei-Ming LEE, et al :
Application No. 10/662,426 : DECISION ON PETITION
Filed: September 16, 2003 : TO WITHDRAW
Attorney Docket No. 146712004200 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed March 30, 2007.

The request is **APPROVED**.

A review of the file record indicates that Peter J. Davis: (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, Peter J. Davis has 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 of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest. 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.

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

There is an outstanding Office action mailed April 13, 2007 that requires a reply from 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: WEI-MING LEE
5740 HIGHBLUFF TERRACE
PLEASANTON, CA 94588

cc: RAJ S. DAVE, PH.D.
DARBY & DARBY, P.C.
1500 K STREET, N.W.
SUITE 250
WASHINGTON, DC 20005-1714

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/662,426	09/16/2003	Wei-Ming Lee	146712004200

CONFIRMATION NO. 2374

OC000000024103277

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 05/29/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/30/2007.

- 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JONES DAY
222 EAST 41ST STREET
NEW YORK NY 10017-6702

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Finn Myhren et al :
Application No. 10/662,441 : DECISION GRANTING PETITION
Filed: September 16, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 11438-004-999 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 30, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of April 13, 2006, is accepted as having been unintentionally delayed.

The power of attorney submitted with the petition on November 30, 2006 is not in compliance with the requirements of 37 CFR 3.73(b). A blank copy of form PTO/SB/96 is enclosed for your convenience.

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

This matter is being referred to Technology Center AU 1617.

Karen Creasy
Petitions Examiner
Office of Petitions

CC:
MORGAN, LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004

Enclosed: Blank copy of Form PTO/SB/96

PTO/SB/96 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number
_____	
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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RYNDAK & SURI
30 NORTH LASALLE STREET
SUITE 2630
CHICAGO, IL 60602

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MAY 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Brian C. Jones et al	:	
Application No. 10/662,467	:	ON PETITION
Filed: September 16, 2003	:	
Attorney Docket No. 02105.002250.1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed August 25, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 27, 2004.

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

This matter is being referred to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

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JUN 23 2006

OFFICE OF PETITIONS

In re Application of :

Joachim Laurenz Naimer et al :
Application No. 10/662,485 : DECISION ON PETITION
Filed: September 15, 2003 : TO WITHDRAW
Attorney Docket No. UNI1773-011 : 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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Stephen L. Grant, along with all of the other attorneys associated with Customer No. **08698** has been revoked by the assignee of the patent application on December 9, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant/assignee or the current attorneys of record.

This application is being referred to Technology Center AU 2612 for the mailing of the Non-final Rejection on June 7, 2006.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

cc:

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ROBERT N. MONTGOMERY
109 BROWNLEE AVE.
BROUSSARD, LA 70518-3021

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AUG 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Kyle Broussard :
Application No. 10/662,487 :
Filed: September 15, 2003 :
Attorney Docket Number: :
20030829 : ON PETITION

This is a decision on the petition to revive the application under 37 CFR § 137(a) July 1, 2005.

The Petition under 37 CFR 1.137(a) is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-compliant Amendment ("Notice"), mailed November 10, 2004. The Notice set a one (1) month period for reply. Applicant filed a response to the Notice on November 15, 2004; however, the response failed to comply with the Notice. No proper response having been received, the application became abandoned on Decembed 11, 2004. A Notice of Abandonment was mailed June 20, 2005.

Applicant files the instant petition wherein Applicant asserts that the response to the Notice filed November 15, 2004 was a bona fide reply to the Notice, and Applicant should have been notified by this Office, as required by MPEP 714.03, that his reply was deficient. Such notification, Applicant asserts, would have allowed him to timely remedy any deficiencies such that a complete and proper reply to the Notice could have been filed.

Applicant provides the following quote, including italics and underlining for emphasis, of MPEP 714.03:

"Where there is sufficient time remaining in the period for reply (including extensions under 37 CFR 1.136(a)), the applicant may simply be notified that the omission *must* be supplied within the remaining time period for reply. This notification should be made, if possible, by telephone. And. When such notification is made by telephone, an interview summary record (see MPEP 713.04) must be completed and entered into the file application to provide a record of such notification. A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a Request for Continued Examination; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the 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).

Applicant lacks item (3) as set forth above.

Applicable Law

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.[1] 35 U.S.C. § 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee ... at any time ... if the delay is shown *to the satisfaction of the Commissioner* to have been unavoidable." (emphasis added).

[1] The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, ... the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA)1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg, 849 F.2d 1422, 1425, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[2] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[3] The statute requires a "showing"

[2] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for

by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). Finally, a "delay (in responding) resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or MPEP, [] does not constitute unavoidable delay." MPEP 711.03(c).

Applicant's Assertion

Applicant files the instant petition and states that the Examiner or Office Staff failed to Notify Applicant by phone as required by MPEP 714.03.

---

the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Analysis

As to (3), Applicant has failed to demonstrate that the entire delay was unavoidable. Applicant alleges that the Examiner's or this Office's failure to notify him contributed to his delay in filing a response.

A review of MPEP 714.03 as quoted by Applicant makes it clear that the applicant may simply be notified. This is not a requirement. The word "may" is defined as "hav[ing] the ability to; hav[ing] permission to; used to indicate possibility or probability." Merriam-Webster's Collegiate Dictionary, tenth edition 1998. It is clear that the Examiner has the ability to, or has permission to notify an Applicant, but is not required to notify an Applicant.

Here, Applicant's emphasis is mis-placed. Applicant emphasizes the word "must", but the word "must" as quoted by Applicant, modifies the word "omission", and refers to the omission that "must" be supplied, NOT that the applicant "must" be notified. Again, the applicant "may" be notified.

Applicant apparently misunderstands the patent rules. Applicant is advised that nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay. Moreover, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered 'unavoidable' due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm□r Pat. 1994)(*while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction*) (Emphasis supplied).

Accordingly, because the Examiner did not notify Applicant of Applicant's filing mistake(s) does not render the delay unavoidable.

Furthermore, it is noted that the failure to respond to the Notice is the reason for the abandonment. Applicant is directed to the MPEP, section 711.02, which reads:

> 37 CFR 1.135(a) specifies that an application becomes abandoned if applicant 'fails to reply' to an office action within the fixed statutory period. This failure may result either from (A) failure to reply within the statutory period, or (B) insufficiency of reply, i.e. failure to file a 'complete and proper reply, as the condition of the case may require' within the statutory period (37 CFR 1.135(b)).

This section clearly explains that abandonment occurs when Applicant fails to timely and properly reply to the outstanding Office action.

Regarding Applicant's argument, that the Examiner's or this Office's notification to Applicant would have allowed Applicant to take measures to avoid abandonment, Applicant is directed to 37 CFR 1.135(b), Abandonment For Failure to Reply Within Time Period, which reads:

> Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

This section is further clarified in the Manual of Patent Examining Procedure ('MPEP'), which provides

> [f]or example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not 'unavoidable' when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.

This section explains that a delay is not unavoidable when the applicant-petitioner is awaiting an action from the examiner. In other words, when Applicant filed the response to the non-final Office action, it was Applicant's responsibility to file a complete and proper reply as the application required in the first instance.

Conclusion

The evidence has been considered, but is not persuasive that the delay was unavoidable. As iterated above, a delay is not 'unavoidable' when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action

Accordingly, the petition under 37 CFR 1.137(a) is dismissed.

Alternative venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00.

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

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

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

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

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT N. MONTGOMERY
109 BROWNLEE AVENUE
BROUSSARD, LA 70518-3021

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NOV 18 2005

OFFICE OF PETITIONS

In re Application of :
Kyle Broussard :
Application No. 10/662,487 : ON PETITION
Filed: September 15, 2003 :
Attorney Docket No. 20030829 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 4, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to respond to the Notice of Non-Compliant Amendment mailed November 10, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application file is being referred to Technology Center Art Unit 3617, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of :
Jacob DeBaan :
Application No. 10/662490 :
Filing or 371(c) Date: 09/15/2003 :
Attorney Docket Number: :
BLUE.65449 : ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Under 37 CFR § 1.181(a)", filed August 24, 2007.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed January 29, 2007. 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 April 30, 2007. A Notice of Abandonment was mailed August 21, 2007.

Applicant's Assertion

Applicant files the present petition and asserts that a timely reply to the Office action, to wit – an Amendment, was filed on April 26, 2007, 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 Amendment, and a copy of his return-receipt postcard acknowledging receipt by this Office of an Amendment on April 30, 2007.

A review of the Amendment reveals that it contained a Certificate of Mailing under 37 CFR 1.8, certifying that the Amendment was mailed to this Office on April 26, 2007. The Certificate of Mailing was executed by Susan P. Cueto.

While Applicant has filed sufficient evidence to demonstrate the filing of the Amendment, the date of the Amendment filing has not been adequately established. 37 CFR 1.8(b)(3) requires a

statement which attests on a personal knowledge basis to the timely mailing of the Reply; however, a statement from Ms. Susan P. Cueto has not been provided. Accordingly, it is unclear whether the reply was timely, or whether an extension of time and fee are required.

The petition is dismissed without prejudice. Applicant should file a request for reconsideration of petition which includes a statement from Ms. Cueto which attests on a personal knowledge basis to the timely mailing of the Amendment.

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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In re Application of
Jacob DeBaan
Application No. 10/662490
Filing or 371(c) Date: 09/15/2003
Attorney Docket Number:
BLUE.65449

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OFFICE OF PETITIONS

ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Under 37 CFR § 1.181(a)", filed August 24, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed January 29, 2007. 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 April 30, 2007. A Notice of Abandonment was mailed August 21, 2007.

Applicant filed a petition on August 24, 2007, and asserted that a timely reply to the Office action, to wit – an Amendment, was filed on April 26, 2007, and received by this Office as evidenced by the copy of Applicant's return-receipt postcard. In support of this assertion, Applicant filed a copy of the Amendment, and a copy of his return-receipt postcard acknowledging receipt by this Office of an Amendment on April 30, 2007.

A review of the Amendment revealed that it contained a Certificate of Mailing under 37 CFR 1.8, certifying that the Amendment was mailed to this Office on April 26, 2007. The Certificate of Mailing was executed by Susan P. Cueto.

While Applicant had filed sufficient evidence to demonstrate the filing of the Amendment, the date of the Amendment filing had not been adequately established. 37 CFR 1.8(b)(3) requires a statement which attests on a personal knowledge basis to the timely mailing of the Reply; however, a statement from Ms. Susan P. Cueto had not been provided. As such, it was unclear whether the reply was timely, or whether an extension of time and fee were required.

The petition was dismissed without prejudice.

Applicant files the present request for reconsideration of petition, and includes a statement from Ms. Cueto, which attests on a personal knowledge basis to the timely mailing of the Amendment.

The petition is granted.

The application will be referred to Technology Center Art Unit 3617 for processing of the amendment filed with the petition on August 24, 2007 (Certificate of Mailing dated April 26, 2007), 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

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Paper No. None

Bell, Boyd & Lloyd LLC
P.O. Box 1135
Chicago IL 60690-1135

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APR 07 2004

OFFICE OF PETITIONS

In re Application of :
Anthony J. Baerlocher :
Application No. 10/662,496 : DECISION ON PETITION
Filed: September 15, 2003 : UNDER 37 C.F.R. §1.53(e)
Attorney Docket No. 112300-1541 :
Title: GAMING DEVICE HAVING :
RELATED MULTI-GAME BONUS SCHEME :

This is a decision on the petition pursuant to 37 C.F.R. §1.53(e), filed February 9, 2004, requesting the application be accorded a filing date of September 15, 2003 with Figure 7C considered part of the original disclosure.

The application was deposited on September 15, 2003. However, on December 18, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), stating that the application appeared to have been deposited without Figure 7C. The notice further indicated that an executed oath or declaration and the surcharge associated with the late filing of an oath or declaration were required.

In response, on February 9, 2004, applicants filed the present petition. The petition is further accompanied by a copy of Figure 7C, along with a copy of applicants' postcard receipt acknowledging receipt of "Drawings - 24 pages" in the United States Patent and Trademark Office (Office) on September 15, 2003. Applicants request that the application, including Figure 7C, be accorded a filing date of September 15, 2003.

Upon review of the record, the above-mentioned figure has not been located among the application papers. It is noted that twenty-three (23) pages of drawings have been located in the electronic file. However, the evidence is convincing that the

application papers deposited on September 15, 2003 included 24 pages of drawings, including Figure 7C, and this figure were subsequently misplaced in the Office. See MPEP 503.

Therefore, the application, including Figure 7C, was complete on filing and entitled to a filing date of September 15, 2003.

Accordingly, the petition is **GRANTED.**

Given the basis for granting the 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 15, 2003, using the original application papers filed on that date, as well as Figure 7C submitted on February 9, 2004, and for indication in Office records that 24 sheets of drawings, including Figure 7C, were present on filing.

Receipt of the declaration and 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

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Mailed: 2/23/06

HYP
Paper No.

In re Application of Mitsugu Iwatsubo
Serial No.: 10/662,507
Filed: September 16, 2003

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: CONTAINER FOR OXIDATION DYE

This is a decision on the PETITION TO CORRECT INVENTORSHIP filed July 12, 2005 to correct inventorship under 37 CFR 1.48(a) by adding the names of Yuuji Yamaguchi and Takurou Ito 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.

/Harold Y. Pyon/

Harold Y. Pyon
Supervisory Patent Examiner
Art Unit 1772
Technology Center 1700

OBLON, SPIVAK, McCLELLAND,
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DEC 14 2006

OFFICE OF PETITIONS

In re Application of :
Gael Bouchy et al :
Application No. 10/662,510 : DECISION GRANTING PETITION
Filed: September 16, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 242818US :

This is a decision on the petition, filed December 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 7, 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 3679 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

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

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Gustavo Siller, Jr.
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Patent No. 7,346,715	:	
Naoyuki Hatano	:	DECISION ON
Issue Date: March 18, 2008	:	REQUEST FOR RECONSIDERATION
Application No. 10/662,560	:	OF
Filed: September 15, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 9281-4635	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed May 22, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred twenty-one (421) days to six hundred forty-two (642) days.

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

On March 18, 2008, the above-identified application matured into US Patent No. 7,346,715 with a patent term adjustment of 421 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 1.705(d).

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

Patentees request recalculation of the patent term adjustment to include a 221 day period of adjustment pursuant to 37 C.F.R. §1.703(b). Patentees maintain entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 221 days and the period of adjustment

due to other examination delay, pursuant to 37 CFR §1.702(a), of 457 days.

The 221 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on September 15, 2003, and a request for continued examination (RCE) having been filed in this application on April 24, 2007, three years and 221 days later. Patentees assert that in addition to this 221 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 457 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1). A first non-final Office action was mailed on February 15, 2006, 14 months and 457 days after the application was filed on September 15, 2003.

Under 37 CFR § 1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which Patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 36 days for applicant delay is not in dispute.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (221 days) and the period of Examination Delay (457 days) to the extent that these periods of delay are not overlapping. However, in effect, Patentees contend that no portion of the Three Year Delay period overlaps with the period of 14 month examination delay. Accordingly, Patentees submit that the total period of adjustment for Office delay is 678 days, which is the sum of the period of Three Year Delay (221 days) and the period of Examination Delay (457 days), reduced by the period of overlap (0 days).

As such, Patentees assert entitlement to a patent term adjustment of 642 days (221 + 457 reduced by 0 overlap - 36 (applicant delay)).

The Office agrees that as of the filing of the RCE on April 24, 2007, the application was pending 3 years and 221 days after its filing date. The Office agrees that the action detailed above

was not taken within the specified time frame, and thus, the entry of a period of adjustment of 457 days is correct. At issue is whether Patentees should accrue 221 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 457 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 221 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of

> delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year

application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

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

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on September 15, 2006, the date that is 3 years after the actual filing date of the application is incorrect.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, September 15, 2003, as terminated by the filing of the RCE on April 24, 2007. 457 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. All of the 221 days for Office delay in issuing the patent overlap with the 457 days of Office delay. During that time, the issuance of the patent was delayed by 457 days, not 457 + 221 days. The Office took 14 months and 457 days to issue a

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

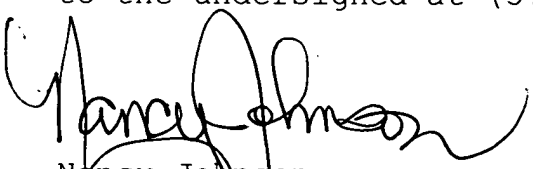
first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 457 days of Office delay and the 36 days of applicant delay and the time allowed within the time frames for processing and examination, as of the filing date of the RCE, the application was pending three years and 221 days. The Office did not delay 457 days and then an additional 221 days. Accordingly, 457 days of patent term adjustment (not 457 and 221 days) was properly entered since the period of delay of 221 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 457 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 457 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 221 days over three years to the filing of the RCE.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Patentees remain under a duty to disclose to the Office entry of additional patent term adjustment that is not warranted.

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



Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

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AUG 17 2004

MICHAEL BERNS
MALONEY, PARKINSON AND BERNS
135 W MAIN STREET
URBANA IL 61801

In re Application of	:
Patrick Arnold	:
Serial No.: 10/662,594	: PETITION TO MAKE SPECIAL
Filed: September 15, 2003	:
Attorney Docket No.: LPJ6OXO	:

This is in response to applicants' petition filed February 17, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II, 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 703-872-9306.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BALLY GAMING INC.
6601 S. BERMUDA ROAD
LAS VEGAS, NV 89119

Mail Date: 04/20/2010

Applicant	: Mickey Roemer	: DECISION ON REQUEST FOR
Patent Number	: 7631872	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/662,605	: 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 **818** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 3200
DES MOINES IA 50309-2721

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OFFICE OF PETITIONS

In re Application of :
Abdol Hossain FARID et al. :
Application No. 10/662,613 : ON PETITION
Filed: September 15, 2003 :
Attorney Docket No. P05562US00 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2007, 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 March 26, 2007, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on September 27, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and rule 132 declaration, a Request for Continued Examination, and the $810 filing fee; (2) the petition fee of $1540; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of March 26, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6052 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 1634 for appropriate action on the concurrently filed Request for Continued Examination, amendment and rule 132 declaration.

David A. Bucci
Petitions Examiner
Office of Petitions

14 DEC 2004

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Andrew Young
Lackenbach Siegel LLP
One Chase Road
Scarsdale, NY 10583

In re Application of	:
Sago et al.	: DECISION ON
Application No.: 10/662,669	: PETITION
Filing Date: 15 September 2003	: UNDER 37 CFR 1.182
For: OPTICAL CONNECTOR WITH MEMORY FUNCTION	:
	:

This decision is in response to applicant's "PETITION TO CONVERT FILING BASIS FROM 35 U.S.C. § 111 TO 35 U.S.C. § 371 AND ISSUE A FILING RECEIPT UNDER 35 USC §371" which has been treated as a petition under 37 CFR 1.182. The $130 petition fee has been paid.

BACKGROUND

On 08 January 2003, applicant filed international application PCT/JP03/00082 that claimed priority of an earlier Japanese application which was filed 15 January 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 July 2003. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 15 July 2004.

On 15 September 2003, applicant filed a transmittal letter for the filing of a United States patent application which was accompanied by, *inter alia*, a copy of the application, a preliminary amendment and the filing fee of $750. These papers were assigned application number 10/662,669. The transmittal letter indicated that the application was being filed under 35 U.S.C. 111(a).

On 05 December 2003, the United States Patent and Trademark Office (USPTO) mailed applicant a "NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION FILED UNDER 37 CFR 1.53(b)" and the "FILING RECEIPT."

On 09 February 2004, applicant filed the current response asking that the application be converted to a filing under 35 U.S.C. 371.

DISCUSSION

It is first noted that while the application papers filed 15 September 2003 contained instructions to treat the submission as a national stage submission under 35 U.S.C. 371 (see e.g., the Remarks section of the preliminary amendment), the transmittal letter clearly indicated a filing under 35 U.S.C. 111 at the bottom thereof. Accordingly, the submission was properly treated as a filing under 35 U.S.C. 111(a). See 37 CFR 1.495(g).

U.S. Statutes and Regulations do not make specific provision for the requested action and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available. Petitioner has not provided such a showing.

CONCLUSION

For reasons above, the petition is hereby **DISMISSED**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Conferee: Boris Milef
PCT Legal Examiner
PCT Legal Office

DSB/BM:dsb
Telephone: (571) 272-3280
Facsimile: (703) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DRW Oct-06

RICHARD L. MILLER
12 PARKSIDE DRIVE
DIX HILLS NY 11746-4879

COPY MAILED
OCT 25 2006
OFFICE OF PETITIONS

In re Application of :
Robert Nasimov :
Application No. 10/662,670 : DECISION ON PETITION
Filed: 15 September, 2003 :
Atty Docket No. NASR64A :

This is a decision on the petition filed on 16 March, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 13 October, 2005, for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due mailed on 12 July, 2005, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 8 February, 2006.

Receipt of the issue fee is acknowledged.

---

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

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

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

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

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

You have appointed a representative to conduct all business before the Patent and Trademark Office (Office). The Office will not engage in dual correspondence with you and your representative. Accordingly, you must conduct all future correspondence with this Office through the representative of record. If you no longer wish to represented by the representative of record, then a revocation of the power of attorney or authorization of agent must be submitted. A courtesy copy has been mailed to you for your convenience. All future correspondence, however, will be mailed solely to the address of record.

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Robert Nasimov
64-07 102nd Street
Rego Park NY 11374

UNITED STATES 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-06

BRIAN L. TAFEL
1821 AZALEA LANE
MOUNT PROSPECT IL 60056

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OFFICE OF PETITIONS

In re Application of	:	
Brian Leonard Tafel	:	DECISION ON PETITION
Application No. 10/662,686	:	AND
Filed: 15 September, 2003	:	NOTICE OF ABANDONMENT
For: SPLICING VEHICLE	:	

This is a decision on the petition filed on 8 February, 2006, which is treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application is **abandoned**.

On 15 September, 2003, the application was filed.

A review of the record reveals that on 25 January, 2005, a non-final Office action was mailed, setting a three (3) month shortened statutory period for reply.

On 6 May, 2005, petitioner filed a paper as an amendment in response to the Office action mailed on 25 January, 2005, but did not file an extension of time.

On 28 June, 2005, petitioner filed a one (1) month extension of time.

On 29 July, 2005, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed, setting forth a one (1) month shortened period for reply.

On 8 February, 2006, the present petition was filed, accompanied by an Express Mail receipt. Petitioner asserts that his reply to

the Notice mailed on 29 July, 2005, was timely filed by Express Mail on 26 August, 2005.

37 CFR 1.135 states, in pertinent part:

> (a) If an applicant of a patent application fails to reply within the time period provided under 37 CFR § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
>
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require.

37 CFR 1.136(a)(2), states, in pertinent part:

> The date on which the petition and the fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The expiration of the time period is determined by the amount of the fee paid. A reply must be filed prior to the expiration of the period of extension to avoid abandonment of the application (§ 1.135), but in no situation may an applicant reply later than the maximum time period set by statute, or be granted an extension of time under paragraph (b) of this section when the provisions of this paragraph are available.

A review of the record reveals that a timely and proper reply to the Office action mailed on 25 January, 2005, was never filed. Although petitioner attempted to file an amendment on 6 May, 2005, an extension of time was required but was not filed. As such, the amendment was not a complete reply. Petitioner filed a one (1) month extension of time on 6 May, 2005. On 6 May, 2005, however, a two (2) month extension was required to make the reply timely. As such, a complete and timely reply to the 25 January, 2005, Office action was never filed, and the application became abandoned as, as a matter of law, on midnight on 28 May, 2005.[1]

As the application became abandoned on 28 May, 2005, the Notice mailed on 29 July, 2005, is of no force or effect.

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[1] See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964)

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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

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

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

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

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioners' convenience. A copy of the fee schedule is also enclosed.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision.

The format and wording of the petition, are that of an inexperienced applicant. In further prosecution, the services of a registered attorney or agent are recommended.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64
Fee Schedule

UNITED STATES 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-06

BRIAN L. TAFEL
1821 AZALEA LANE
MOUNT PROSPECT IL 60056

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OFFICE OF PETITIONS

In re Application of :
Brian L. Tafel :
Application No. 10/662,686 : DECISION ON PETITION
Filed: 15 September, 2003 :
For: SPLICING VEHICLE :

This is a decision on the petition filed on 11 July, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 28 May, 2005, for failure to timely file a proper reply to the non-final Office action mailed on 25 January, 2005. A one (1) month extension of time was filed on 6 May, 2005. Notice of Abandonment was mailed on 31 May, 2006.

---

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

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

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

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

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

The present petition is accompanied by an amendment.

The application is being forwarded to Technology Center Art Unit 3654 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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)
6775941	2004-08-17	10662693	2003-09-13	2198/1122

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/paul e. szabo/	Date (YYYY-MM-DD)	2009-08-21
Name	Paul E. Szabo	Registration Number	30429

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. 6775941
Issue Date: August 17,2004
Application No. 10662693
Filed: September 13,2003
Attorney Docket No. JMC-14

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

This is a decision on the electronic petition, filed August 21,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 21,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE, CA 92614

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of :
James F. McNulty Jr. :
Application No. 10/662,694 : ON PETITION
Filed: September 13, 2003 :
Attorney Docket No. JMC-15 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed January 22, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at on April 23, 2004.

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

Receipt is acknowledged of the Drawings filed November 26, 2004, with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application file is being forwarded to the Publishing Division for further processing.

Retta Williams

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

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)
6877434	2005-04-12	10662694	2003-09-13	2198/1124

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/paul e. szabo/	Date (YYYY-MM-DD)	2009-08-21
Name	Paul e. Szabo	Registration Number	30429

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.**

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6877434
Issue Date: April 12,2005
Application No. 10662694
Filed: September 13,2003
Attorney Docket No. JMC-15

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

This is a decision on the electronic petition, filed August 21,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 21,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

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FEB 0 3 2005

TECHNOLOGY CENTER 3600

Head, Johnson & Kachigian
228 W. 17th Place
Tulsa, OK 74119

In re application of
Cynthia R. Gourd
Application No. 10/662,740 : DECISION ON REQUEST
Filed: September 15, 2003 : FOR WITHDRAWAL OF
For: TENSION RELIEVING APPARATUS : ATTORNEY
FOR ARMS AND NECK

This is a decision on the request filed on May 21, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

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

As to Item A), there are currently 3 attorneys associated with Customer Number 24118 and 5 associated with Customer Number 24951. The request only indicates withdrawal for 1 attorney. If only the attorney listed in the request is to have power withdrawn and the remaining attorneys are intended to remain having power of attorney for this case, this needs to be made clear in any supplemental request; otherwise all attorneys of record would need to be added to the request.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121
Facsimile No.: (703) 605-0586

RAR/dcg: 11/4/04

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WELSH & KATZ, LTD.
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120 SOUTH RIVERSIDE PLAZA
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Gin Wu :
Application No. 10/662,744 : DECISION ON PETITION
Filed: September 15, 2003 : TO WITHDRAW
Attorney Docket No. 7887-90605 : 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 6, 2005.

The request is **NOT APPROVED**.

A review of the file record indicates that neither Julie Daulton nor any attorney associated with customer No. 23552 has power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is not applicable.

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Julie Daulton
Merhant and Gould PC
80 S. Eight Street
3200 Ids Ctr
Minneapolis, MN 55402

cc: Intra Vantage, Inc.
2950 Xenium Lane N.
Plymouth, MN 55441

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS		
	Application Number	10/662744
	Filing Date	09/15/2003
	First Named Inventor	Gin Wu
	Art Unit	3767
	Examiner Name	Mark K Han
	Attorney Docket Number	14783.0004USC1

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 [redacted]

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associatedwith a customer number.

The reasons for this request are:

The client has failed to pay one or more bills rendered for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to:

Firm or Individual Name	IntraVantage, Inc.				
Address	2950 Xenium Lane N.				
City	Plymouth	State	MN	Zip	55441
Country	United States				
Telephone		Fax			
Signature					
Name	Julie R. Daulton	Registration No.	36,414		
Date		Telephone No.	612.332.5300		

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

CARLSON, GASKEY & OLDS/PRATT & WHITNEY
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 04/21/2010

Applicant	: James D. Goss	: DECISION ON REQUEST FOR
Patent Number	: 7594760	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/662,751	: 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 **613** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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530 JACKSON ST
2ND FLOOR
SAN FRANCISCO CA 94133

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OFFICE OF PETITIONS

In re Application of :
Kil :
Application No. 10/662,765 : DECISION ON PETITION
Filed: September 15, 2003 : TO WITHDRAW
Attorney Docket No. ARC01-20100.00 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 20, 2006.

The request is **NOT APPROVED**.

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

The 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 asked to transfer file at the request of the assignee", does not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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THOMAS J. GERMINARIO
DIEHL SERVILLA LLC
77 BRANT AVE
SUITE 210
CLARK NJ 07066

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OFFICE OF PETITIONS

In re Application of :
Hassan AHMAD et al. :
Application No. 10/662,777 : ON PETITION
Filed: September 15, 2003 :
Attorney Docket No. 2551-1-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 22, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Non-Final Office Action mailed on February 21, 2007, which set a statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on May 22, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (2).

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $810. See 37 CFR 1.27.

The petition in the above-identified application was accompanied by payment of $770 and not accompanied by the required fee of $810. No consideration on the merits can be given to the petition until the required fee is received. Further, no authorization for charging of the remaining fee was received.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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 Tammara Peyton at (571) 272-6052 or in his absence to the undersigned at (571) 272-7099.

David A. Bucci
Petitions Examiner
Office of Petitions

Cc:
THOMAS J. GERMINARIO, ESQ.
154 ROUTE 206
CHESTER, NJ 07930

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DIEHL SERVILLA LLC
77 BRANT AVE
SUITE 210
CLARK NJ 07066

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of :
Hassan AHMAD et al. :
Application No. 10/662,777 :
Filed: September 15, 2003 :
Attorney Docket No. 2551-1-001 :

DECISION ON PETITION

This is a decision on the renewed petition, under 37 CFR 1.137(b) filed on March 05, 2010, to revive the above-identified 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 February 21, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on May 22, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the required reply; (2) the petition fee of $810 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 for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Accordingly, the reply to the Non-final Office Action mailed on February 21, 2007 is accepted as having been unintentionally delayed.

The Associate Power of Attorney filed with the petition on March 05, 2010 was not accepted and the names of the patent practitioners listed on the Associate Power of Attorney have not been made of record. Petitioner's request for change of power of attorney is not accepted as petitioner has not complied with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number)

where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

As to item (2) listed above, petitioner has failed to identify the current assignee of record and have all the inventors of record sign.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Tammara Peyton at (571) 272-6052 or in his absence to the undersigned at (571) 272-3217.

The Application is being referred to Art Unit 1655 for further processing.

David Bucci
Petitions Examiner
Office of Petitions

Cc:
THOMAS J. GERMINARIO, ESQ.
154 ROUTE 206
CHESTER, NJ 07930

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77 BRANT AVE
SUITE 210
CLARK, NJ 07066

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APR 19 2010

OFFICE OF PETITIONS

In re Application of :
Ahmad et al. :
Application No. 10/662,777 :
Filed: September 15, 2003 :
Title: Botanical Drug Compositions For Treatments Of Liver And Immunological Disorders :

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 1, 2010.

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

A review of the file record indicates that on April 6, 2010 the power of attorney to Diehl Servilla LLC 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: THOMAS J. GERMINARIO, ESQ.
154 ROUTE 206
CHESTER NJ 07930

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ALISO VIEJO CA 92656

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OFFICE OF PETITIONS

In re Application of :
Kent E. Peterson :
Application No. 10/662,779 : ON PETITION
Filed: September 15, 2003 :
Attorney Docket No. NORTE-500A :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 24, 2006.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed September 22, 2005, which set a shortened statutory period for reply of three (3) months. The application was held abandoned on December 23, 2005. A Notice of Abandonment was mailed on April 3, 2006.

Applicant has filed the instant petition, arguing that he timely filed a response. In support there of, petitioner has submitted *prima facie* evidence in the form of a USPTO date stamped postcard receipt, itemizing an Amendment. See MPEP 503.

However, the Examiner has determined that the Amendment fails to place the application in condition for allowance. A proper reply to a final Office action consists of either (1) a Notice of Appeal (and fee required by law); (2) an amendment that *prima facie* places the application in condition for allowance; (3) the filing of a continuing application under 37 CFR 1.53(b) or if applicable, 1.53(d); or (4) a request for a continuing examination (RCE) under 37 CFR 1.114.

While the showing of record is not sufficient to establish to warrant withdrawing the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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ALISO VIEJO CA 92656

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OFFICE OF PETITIONS

In re Application of :
Kent E. Peterson :
Application No. 10/662,779 : ON PETITION
Filed: September 15, 2003 :
Attorney Docket No. NORTE-500A :

This is a decision on the petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed August 18, 2006.

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

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed September 22, 2005, which set a shortened statutory period for reply of three (3) months. The application was held abandoned on December 23, 2005. A Notice of Abandonment was mailed on April 3, 2006. Applicant filed a petition to revive on April 24, 2006. However, the petition was dismissed in a decision mailed on August 10, 2006. The amendment submitted with the petition was determined by the Examiner to not place the application in condition for allowance.

With the instant petition, petitioner has submitted the petition fee, filed an RCE together with the appropriate fee, and made the proper statement of unintentional delay. As applicant did not submit an amendment with the RCE (as indicated on the RCE form), the required submission will be the amendment submitted with the petition to revive on April 3, 2006.

The matter is being forwarded to Group Art Unit 2817 for consideration of the RCE filed August 18, 2006, and the submission filed April 3, 2006 (with the petition to revive).

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

Cliff Congo
Petitions Attorney
Office of Petitions

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SENNIGER POWERS LLP
100 NORTH BROADWAY
17TH FLOOR
ST LOUIS, MO 63102

Mail Date: 04/20/2010

Applicant	: Thomas E. Yingst	: DECISION ON REQUEST FOR
Patent Number	: 7640696	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/662,783	: 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 **445** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS TX 75380

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of	:	
Chefalas et al.	:	
Application No.: 10/662789	:	DECISION ON
Filing or 371(c) Date: 09/15/2003	:	PETITION
Attorney Docket Number: YOR920010714US1	:	

This is a decision in response to the petition to withdraw holding of abandonment Office action not received, filed April 9, 2008. The petition is properly treated under 37 CFR 1.181.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 21, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned August 22, 2007. A Notice of Abandonment was mailed December 4, 2007.

With the present petition, Applicant has demonstrated non-receipt of the Office Action by a preponderance of the evidence.

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 2165 for re-mailing of the Office action and for e-setting the period for reply.

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

Derek L. Woods
Attorney
Office of Petitions

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MICHAEL J. BUCHENHORNER
8540 S.W. 83 STREET
MIAMI, FL 33143

Mail Date: 04/20/2010

Applicant	: Mukund Raghavachari	: DECISION ON REQUEST FOR
Patent Number	: 7596748	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/662,799	: 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 **697** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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mb

Mailed: 4.26.07

In re application of :
Nagai et al. : DECISION ON
Serial No. 10/662,809 : PETITION
Filed: September 16, 2003 :
For: METHOD FOR PRODUCING GROUP III NITRIDE COMPOUND SEMICONDUCTOR SUBSTRATE

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed April 2, 2007.

On December 15, 2006, a non-final office action was mailed to applicant rejecting all of the claims under 35 USC 103 over the Tischler reference. A reply to the office action was filed by applicants on March 13, 2007. In the reply, applicants did not amend the previously presented claims and added new claims. A final office action was mailed by the office on April 2, 2007 containing new grounds of rejection. On April 5, 2007, the instant petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of finality of the April 2, 2007 office action.

Petitioner's position for the withdrawal of the finality is that the new grounds of rejection in the final office action were not necessitated by applicant's amendments to the claims.

DECISION

Section 706.07 of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

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

In the non-final rejection of December 15, 2005, Claims 1, 3-4, 6-15, and 17-18 were rejected over Tischler. In the amendment filed by applicants, Claims 1, 3-4, 6-15, and 17-18 were not amended and Claims 19-20 were added. The examiner established a new grounds of rejection of claims 1, 3-4, 6-15, and 17-20 over Tischler in view of Shibata in the final office action of April 2, 2007. The petitioner argues that since the reply of March 13, 2007 did not amend Claims 1, 3-

4, 6-15, and 17-18, the new grounds of rejection of those claims over Tischler in view of Shibata, in the Final office action, was not necessitated by amendments. Petitioner's argument that the new grounds of rejection were not necessitated by Applicant's amendments is persuasive.

Because the rejection of claims 1, 3-4, 6-15, and 17-18, based on a new ground of rejection, was not necessitated by amendment, the finality of the office action was premature. Accordingly, the petition for withdrawal of finality is **GRANTED.**

It is also pointed out that while the finality of the office action has been withdrawn, the rejection still stands. Applicant's time for response continues to run from April 2, 2007. Extensions of time may be obtained to file any amendments.

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

SCOTT M. TULINO
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD, SUITE 200
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,809	09/16/2003	Seiji Nagai	T36-159069M/KOH	1114

21254 7590 04/14/2008

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
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VIENNA, VA 22182-3817

EXAMINER	
RAO, G NAGESH	

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
04/14/2008	PAPER

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

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

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4-14-08

In re application of
Seiji Nagai et al.
Serial No. 10/662,809
Filed: September16, 2003
For: Method For Producing Group III Nitride Compound Semiconductor Substrate

DECISION ON PETITION

This is a decision on the PETITION FOR A NEW OFFICE ACTION, filed March 20, 2008. Petitioner requests that the Office Action dated March 18, 2008 is not responsive to the Amendment filed on February 6, 2008.

The file history of Application No. 10/662,809 has been reviewed. Petitioner is reminded that the remedy for improper rejections is appeal to the Board of Patent Appeals and Interferences (37 CFR 41.31) and the appeal for other improper examiner actions is petition (37 CFR 1.181(a)). These are adequate remedies to address petitioner's concerns of the examiner's actions during the examination of the present application.

The petition is **DISMISSED**.

Jacqueline M. Stone

Jacqueline M. Stone
Director, Technology Center 1700
High Polymer Chemistry, Plastics,
Stock Materials and Compositions

Scott M. Tulino
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
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PATENT ADMINISTRATOR
KATTEN MUCHIN ROSENMAN LLP
1025 THOMAS JEFFERSON STREET, N.W.
EAST LOBBY: SUITE 700
WASHINGTON DC 20007-5201

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OFFICE OF PETITIONS

In re Application of	:	
Douglas B. Hill et al	:	
Application No. 10/662,813	:	DECISION GRANTING PETITION
Filed: September 16, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 204694.00101	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 11, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 14, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the previously filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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ATTN: PATENT RECORDS DEPARTMENT
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NEW YORK NY 10022-7650

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OFFICE OF PETITIONS

In re Application of :
Claudia Cherney Stewart :
Application No. 10/662,848 : DECISION ON PETITION
Filed: September 15, 2003 :
Attorney Docket No. JG-RP-4796CIP-C/500561.20 :
Title: METHOD OF ADENOVIRUS, HIV AND HPV PROPHYLAXIS :

This is a decision on the petition filed February 9, 2004, requesting that pages thirty and thirty-one of the specification be accorded a filing date of September 15, 2003, as part of the original disclosure.

The application was deposited on September 15, 2003. However, on December 8, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application - Filing Date Granted" (Notice), stating that the application had been accorded a filing date of September 15, 2003 and advising applicant that pages thirty and thirty-one of the specification appeared to have been omitted.

In response, on February 9, 2004, applicants filed the present petition. The petition is further accompanied by the petition fee, a copy of the missing pages of the specification, and a copy of applicants' postcard receipt acknowledging receipt of "39 pages Spec, Claims & Abstract" in the United States Patent and Trademark Office (Office) on September 15, 2003. Applicants request that pages thirty and thirty-one of the specification be accorded a filing date of September 15, 2003.

It is noted that thirty pages of specification, six pages of claims, and a one page abstract have been found in the electronic file. The copy of the specification which is located in the electronic filed does not contain pages thirty and thirty-one.

Upon review of the record, the above-mentioned pages of the specification has not been located among the application papers. However, the evidence is convincing that the application papers deposited on September 15, 2003 included pages thirty and thirty-one of the specification, and these two pages of the specification was subsequently misplaced in the Office.

Therefore, the application, including pages thirty and thirty-one of the specification, was complete on filing and entitled to a filing date of September 15, 2003, as part of the original disclosure.

Accordingly, the petition is **GRANTED.**

The notice mailed December 8, 2003, was sent in error, and is hereby **VACATED.** Therefore, no petition fee is necessary, and the petition fee of $130 has been refunded to Petitioner's Deposit Account, as authorized in the petition.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 15, 2003, using the original application papers filed on that date, as well as pages thirty and thirty-one of the specification, submitted with the instant petition.

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

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

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Sawyer Law Group
2465 E. Bayshore Road, Suite No. 406
Palo Alto, CA 94303

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JAN 2 8 2009

OFFICE OF PETITIONS

In re Application of :
Makoto Nagashima et al. :
Application No. 10/662,863 : DECISION ON PETITION
Filed: September 15, 2003 :
Attorney Docket No. GSN-002/4571P :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 18, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned 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 January 11, 2006. A one month extension of time was obtained under the provisions of 37 CFR 1.136(a) with the Notice of Appeal. The appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on January 13, 2006. See MPEP 1215.04. A Notice of Abandonment was mailed on October 6, 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 (3).

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

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

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

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

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

As to Period (1):

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

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the

issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on March 12, 2006. That party, in turn must explain what effort(s) was made to further reply to the Notice and, further, why no response was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Tran & Associates were employed or otherwise engaged in proceedings of this application prior to abandonment, an explanation is required as to why this application became abandoned while it was under their control and what efforts was made by the Office of Tran & Associates to further reply and with whom this matter was discussed outside of their office. Copies of any correspondence relating to the filing, or to not filing, a further reply to the outstanding Office action are required from the responsible person(s), and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at the Office of Tran & Associates, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted

in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at the Office of Tran & Associates and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

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

Any renewed petition may be addressed as follows:

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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JUN 13 2005

Neal T.Saiki
111 Bean Creek Rd. Unit 26
Scotts Valley, CA 95066

In re Application of
Neal T. Saiki
Application No. 10/662,870
Filed: September 15, 2003
For: BICYCLE REAR SUSPENSION SYSTEM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw the Holding of Abandonment, filed in the United States Patent and Trademark Office on April 14, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing:

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☒ Certificate of Mailing/Transmission signed on September 17, 2004, and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted, dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☐ Originally sent response, filed _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

SNM/js: 6/9/05

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Foley And Lardner, LLP
Suite 500
3000 K Street NW
Washington, DC 20007

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DEC 21 2006
OFFICE OF PETITIONS

In re Patent No. 7,056,446 :
Issue Date: June 6, 2006 :
Application No. 10/662,886 : ON PETITION
Filed: September 16, 2003 :
Patentee(s): Takashi Nagase, et. al. :

This is a decision on the petition under 37 CFR 1.183, filed on April 21, 2006 and on June 22, 2006, which is being treated as a petition under 37 CFR 3.81[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 petition is **GRANTED**.

Finance records show that petitioner submitted $400 for treatment of the petition under 1.183 on April 21, 2006 and again on June 22, 2006. However, since a petition under 37 CFR 3.81 requires a $130 processing fee, the overpayment of $670 will be credited back to petitioner, in due course.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction in the name of "**National Institute of Information and Communications Technology, Incorporated Administrative Agency, Tokyo Japan**".

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

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

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

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OFFICE OF PETITIONS

In re Application of :
Kyle Young :
Application No. 10/662,919 :
Filed: September 15, 2003 :
Attorney Docket No. 14450US03 :

DECISION ON REQUEST
TO WITHDRAW FROM
RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on September 20, 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 CFR § 1.136(a).

A review of the record shows that George Wheeler, signed the request on behalf of all attorneys or agents of record who are associated with Customer No. 23446. However, Timothy L. Harney, Janet M. McNicholas, and Anthony E. Dowell currently have power of attorney in this application, but are not listed as attorneys or agents under Customer No. 23446. Since they were omitted, it is unclear whether or not the individuals listed above should be withdrawn or retain power.

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 Andrea Smith at 571-272- 3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: Timothy L. Harney
The Civic Opera Building
20 N. Wacker Drive, Suite 1447
Chicago, IL 60606

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : June 19, 2008

TO SPE OF : ART UNIT 2194

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/662933 Patent No.: 7370336 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

[redacted]

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: _____

MENG-AL T. AN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2195
Art Unit

PAGE 1/1 * RCVD AT 6/24/2008 12:15:28 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/28 * DNIS:2709990 * CSID:703 308 0131 * DURATION (mm-ss):01-08

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

In re Application of:
CHEN, et al.
Application No. 10/662,940
Filed: September 16, 2003
For: ELECTRONIC MESSAGE DELIVERY SYSTEM UTILIZABLE IN THE MONITORING AND CONTROL OF REMOTE EQUIPMENT AND METHOD OF SAME

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed January 22, 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 fails to meet requirement (4) inasmuch as there is no description of the classes or subclasses that were searched. Furthermore, details of any text searches have not been provided.

Accordingly, the petition is **DENIED**.

Petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. Any request for reconsideration should include a complete description of the search method employed, such as classes and subclasses searched, a description of text searches used, etc. The application file will be held in the Technology Center to await a request for reconsideration.

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

BEST AVAILABLE COPY

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JUL 19 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

In re Application of :
Kimball C. Chen, et al. :
Application No. 10/662,940 : DECISION ON PETITION
Filed: September 16, 2003 : TO MAKE SPECIAL
For: ELECTRONIC MESSAGE DELIVERY SYSTEM :
UTILIZABLE IN THE MONITORING AND :
CONTROL OF REMOTE
EQUIPMENT AND METHOD OF SAME

This is a decision on the renewed petition to make special filed May 14, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner's renewed petition taken together with the originally filed petition to make special filed on January 22, 2004 meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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GUDRUN E. HUCKETDRAUDT
LONSSTR.53
WUPPERTAL 42289 DE GERMANY

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FEB 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Tomas Kalender	:	
Application No. 10/662,941	:	ON PETITION
Filed: September 16, 2003	:	
Attorney Docket No. P7238.8US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed April 13, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 14, 2005.

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

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JOHN H. SHERMAN, LEGAL DEPT.
INTERMEC TECHNOLOGIES CORPORATION
550 2ND STREET SE
CEDAR RAPIDS, IA 52401

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JUL 31 2007

OFFICE OF PETITIONS

In re Application of :
Harley Kent Heinrich et al :
Application No. 10/662,950 : DECISION GRANTING PETITION
Filed: September 15, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Y0896-0213R5 :

This is a decision on the petition, filed July 30, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 7, 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 2612 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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AUG 30 2005

OFFICE OF PETITIONS

In re Application of
Shawn Nelson
Application No. 10/662,962
Filed: September 15, 2003
Attorney Docket Number: 15605.1.1

: NOTICE

This is a notice regarding your request filed on June 22, 2005, for acceptance of a fee deficiency submission under 37 CFR 1.28 (c).

37 CFR 1.28 (c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby accepted.

The change in status to a large entity has been entered and made of record.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

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JAN 23 2009

OFFICE OF PETITIONS

In re Patent: 6,952,906
Application No. 10/662,962
Filed: September 15, 2003
Issued: October 11, 2005
Attorney Docket Number: 15605.1.1

: NOTICE

This is a notice regarding your request filed on November 23, 2005, for acceptance of a fee deficiency submission under 37 CFR 1.28 (c). A petition filed under 1.28 was previously accepted on August 30, 2005. Petitioner has now requested review of the fees.

A review of the record confirms that the Office in receipt of the appropriate basic filing fees for a large entity which totals $790.00. The filing fees for an application filed or in this instance corrected in 2005 only consisted of one fee and did not separate out the search and examination fees.

However, further review of the fees shows the Office does require an additional $65.00 towards the late surcharge fee. The Office is only in receipt of $65.00 the other than small entity fee is $130.00. Accordingly, deposit account no. 23-3178 will be charged the $65.00 difference.

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.

The change in status to a large entity has been entered and made of record.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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MAY 18 2004

OFFICE OF PETITIONS

In re Application of

Steven Lynch, Steven Douglas Brennan and Steven Walker

Application No. 10/662,976

Filed: September 15, 2003

Attorney Docket Number: DIIF-P01-001

Title of Invention: Wireless Communication Device and Method For Responding to Solicitations

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 11, 2004.

The petition is GRANTED.

Petitioner has shown that non-signing inventor Walker has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application papers was sent to the non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

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

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

application will also be published in the Official Gazette.

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
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Steven Walker
287 Hunnewell Street
Needham Heights, MA 02494

In re Application of
Steven Lynch, Steven Douglas Brennan and Steven Walker
Application No. 10/662,976
Filed: September 15, 2003
Attorney Docket Number: DIIF-P01-001
Title of Invention: Wireless Communication Device and Method For Responding to Solicitations

LETTER

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MAY 18 2004

OFFICE OF PETITIONS

Dear Mr. Walker:

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
Petitions Attorney
Office of Petitions

Wolfgang E. Stutius
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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GO DADDY GROUP, INC.
14455 NORTH HAYDEN ROAD
SUITE 219
SCOTTSDALE, AZ 85260

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OCT 15 2008

OFFICE OF PETITIONS

In re Application of :
Derek Murashige, et al. :
Application No. 10/662,998 : DECISION ON PETITION
Filed: September 16, 2003 :
Attorney Docket No. 0009 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 28, 2007, to revive the above-identified application.

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 May 21, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A two 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 22, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

The petition is **GRANTED,** *nunc pro tunc*.

The Technology Center was without authority to act further in the case absent a grantable petition reviving this application after abandonment. Nevertheless, in view of this decision on petition, the Notice of Appeal is now considered a proper filing and the actions of the Technology Center taken thereafter are hereby ratified.

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

This application is being referred to Technology Center AU 2161 to process the appeal brief filed January 14, 2008.

/April M. Wise/
April M. Wise
Petitions Examiner
Office of Petitions

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SNELL & WILMER
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, AZ 85004-0001

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AUG 13 2004

OFFICE OF PETITIONS

In re Application of :
Tim Clarot and Charles Hensley :
Application No. 10/663,010 : DECISION GRANTING PETITION
Filed: September 15, 2003 : UNDER 37 CFR 1.47(a)
Title: COMPOSITIONS TO REDUCE :
CONGESTION AND METHODS FOR
APPLICATION THEREOF TO THE
NASAL MEMBRANE

This is in response to the "Petition Under 37 CFR 1.47(a)," filed May 10, 2004.

The petition is **granted**.

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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CHARLES HENSLEY
312 NORTH CATALINA AVENUE, UNIT A
REDONDO, CA 90277

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AUG 13 2004

OFFICE OF PETITIONS

In re Application of
Tim Clarot and Charles Hensley
Application No. 10/663,010
Filed: September 15, 2003
Title: COMPOSITIONS TO REDUCE CONGESTION AND METHODS FOR APPLICATION THEREOF TO THE NASAL MEMBRANE

Dear CHARLES HENSLEY:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703)306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

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

SNELL & WILMER
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, AZ 85004-0001

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ALEXANDRIA, VA 22313-1450
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JUN 29 2004

In re Application of
Jeff Karn *et al*
Application No. 10/663,029
Filed: September 15, 2003
Attorney Docket No. 5887-311US

: DECISION ON PETITION

This is a decision on the petition to make special filed on April 23, 2004. The $130.00 petition fee has been received.

The petition is granted.

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

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

The Supervisory Patent Examiner of Patent Examining Art Unit 3714 is being advised of the granting of the instant petition, and will in turn advise the examiner to whom the application is assigned of the special status of this application and the need for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

Akin Gump Strauss Hauer & Feld L.L.P.
One Commerce Square
2005 Market Street
Suite 2200
Philadelphia, PA 19103-7013

UNITED STATES 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

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

MAR 16 2006

OFFICE OF PETITIONS

In re Application of :
Tadayoshi Okada et al. :
Application No. 10/663,060 :
Filed: September 12, 2003 :
Attorney Docket Number: A35998-074224.0118 :
Title: HIGH-STRENGTH BOLTED CONNECTION STRUCTURE WITH NO FIRE PROTECTION :

DECISION ON PETITION UNDER 37 C.F.R. §1.181(A)

This is a decision on the petition under 37 CFR §1.181(a), filed January 11, 2006, to withdraw the holding of abandonment.

BACKGROUND

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 June 24, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 25, 2005.

With the present petition, petitioner has asserted that a reply was timely submitted on October 19, 2005.

RELEVANT PORTION OF THE C.F.R.

37 CFR §1.8(b) sets forth, *in toto*:

> (b) 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.

ANALYSIS

Petitioner has asserted that on October 19, 2005, a response to the notice was timely submitted in conjunction with a one-month extension of time via facsimile transmission. Petitioner has submitted a copy of this response, and it is noted that it contains a certificate of facsimile transmission which is dated October 19, 2005. As such, Petitioner has met the requirements of 37 CFR §§1.8(b)(1) - (3), reproduced above. The Office has been informed of the previous transmission of the correspondence, an additional copy of the same has been provided with this petition, and Petitioner has included a statement which attests on a personal knowledge basis to the previous timely transmission.

As such, Petitioner has established that an after-final amendment was timely transmitted to the Office on October 19, 2005. However, the after-final amendment cannot be accepted as a proper response to the final Office action, for it fails to *prima facie* place the application in condition for allowance. This amendment was considered by the Examiner, but has not been deemed to place the application in condition for allowance. A copy of the Examiner's Advisory Action has been enclosed.

CONCLUSION

The petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

Alternatively, Petitioner may wish to consider filing a petition under 37 CFR §§1.137(a) or (b).

It is noted in passing that Petitioner has submitted a request for continued examination (RCE) with this petition, however the RCE cannot be processed prior to the revival of this application.

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

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

Encl. Examiner's Advisory Action

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450,
Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.

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OFFICE OF PETITIONS

In re Application of :
Tadayoshi Okada et al. :
Application No. 10/663,060 :
Filed: September 12, 2003 :
Attorney Docket Number: A35998-074224.0118 :
Title: HIGH-STRENGTH BOLTED CONNECTION STRUCTURE WITH NO FIRE PROTECTION :

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.181(A)

This is a decision on the renewed petition under 37 CFR §1.181(a), filed June 16, 2006, to withdraw the holding of abandonment. It is noted that Petitioner has included a one-month extension of time to make timely this response.

BACKGROUND

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 June 24, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 25, 2005.

The original petition was submitted on January 11, 2006, and was dismissed via the mailing of a decision on March 16, 2006.

RELEVANT PORTION OF THE C.F.R.

37 CFR §1.8(b) sets forth, *in toto*:

> (b) 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.

ANALYSIS

With the original petition, Petitioner asserted that on October 19, 2005, a response to the notice was timely submitted in conjunction with a one-month extension of time via facsimile transmission. Petitioner supplied a copy of this response with the original petition, and the response contained a certificate of facsimile transmission dated October 19, 2005. This response was considered by the Examiner, and it was determined by the same that it failed to place the application in condition for allowance. As such, the petition was dismissed via the mailing of a decision on March 16, 2006. An advisory action was included with this decision, indicating that the response which was submitted on January 11, 2006[1] failed to place this application in condition for allowance.

With this renewed petition, Petitioner now asserts that the advisory action "apparently does not concern the facsimile after-final response of October 19, 2005…the enclosed Advisory Action concerns Petitioner's RCE filing of January 9, 2006[2]." It

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1 Petitioner had affirmatively represented the response which was submitted with the petition on January 11, 2006 to be a copy of that which was originally transmitted to the Office on October 19, 2005.

2 Renewed petition, page 2.

is noted that Petitioner has previously attested, over his registration number, that the documents which were enclosed with the original petition were the same documents which were presented to the Office on October 19, 2005[3]. It is not clear why Petitioner would assert that the advisory action does not concern the facsimile of October 19, 2005, when he has previously represented that the submission of January 11, 2006 is a copy of that which was submitted on October 19, 2005. If the two submissions are identical, as Petitioner has previously held them out to be, if the advisory action concerns one submission, it must concern the other.

It is clear from rules 37 C.F.R. §§1.116 and 1.135 that abandonment of an application is risked when the applicant proffers an amendment after the mailing of a final Office action. The rule clearly indicates that the mere filing of an amendment does not relieve applicant of the duty to take appropriate action to save the application from abandonment.

If steps are not taken after final to maintain pendency prior to the expiration of the maximum extendable period for reply, the application will go abandoned. Put another way, the submission of an after final amendment which fails to place the application in condition for allowance will result in the abandonment of the application, unless one of the following four items is filed prior to the maximum extendable period for reply:

- a subsequent amendment which places the application in condition for allowance:
- a Notice of Appeal:
- a Request for a Continuation Application pursuant to 37 C.F.R. § 1.53(b), if applicable:
- a Request for Continued Examination pursuant to 37 C.F.R. §1.114, and;
- a Terminal Disclaimer, if applicable.

Petitioner received a final Office action, and submitted an after-final response, which failed to place the application in condition for allowance. Petitioner will note that had the after-final amendment placed the application in condition for allowance, consisted of a notice of appeal, or consisted of an RCE, the previous petition would have been granted, and the holding of abandonment would have been withdrawn. But such is not the case - Petitioner submitted an after-final amendment which failed to place the claims in condition for allowance. As such, *the after-final amendment, even if it had been received*

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3 Original petition, page 2.

and processed when it was originally submitted, could not have been accepted, and the present application would have gone abandoned.

Petitioner is effectively requesting that the Office accept the RCE, which was filed with the original petition, and treat the same as if it had been submitted along with the after-final amendment which failed to place the application in condition for allowance. This cannot be done, as the Office has no authority to accept a response as timely filed if filed after the maximum extendable period for reply.

CONCLUSION

The petition must be **DISMISED**.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[4], hand-delivery[5], or facsimile[6].

NOTICE:

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. §1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

Thereafter, there will be no further reconsideration of this matter[7, 8].

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4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

6 (571) 273-8300- please note this is a central facsimile number.

7 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

8 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as

Petitioner's only relief is a petition under 37 C.F.R. §1.137(a) and/or (b)[9]. Having been made aware of this reality - Petitioner's delay in promptly seeking relief under 37 C.F.R. §1.137 may be considered evidence of intentional delay and an absolute bar to revival.

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.

It is noted in passing that Petitioner has further requested that the Office treat this petition as a petition under 37 C.F.R. §1.182 and/or §1.183.

37 C.F.R. §1.182 concerns situations which are not otherwise provided for in the rules. 37 C.F.R. §1.182 does not apply to the present situation, as it is clear that the rules provide for situations where a petitioner files an after-final amendment which fails to place the application in condition for allowance, and the application consequently goes abandoned. See 37 C.F.R. §1.137.

The filing of a petition under 37 C.F.R. §1.183 is appropriate when a practitioner seeks to have the Office waive a particular rule. Before the Office can act on a petition to waive a particular rule however, Petitioner must identify which rule it is that he wishes to have waived.

Consequently, neither request can be acted upon, and Petitioner's Deposit Account has not been charged for these two petitions. If on renewed petition Petitioner chooses to file a petition under 37 C.F.R. §1.183, he should indicate which rule it is that he wishes to have waived.

Paul Shanoski

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

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final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

9 Upon the granting of a petition under 37 C.F.R. §1.137, the RCE will be entered and the previously filed after-final amendment shall serve as the submission. Alternatively, Petitioner of course is free to submit another amendment to serve as the submission.

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OFFICE OF PETITIONS

In re Application of	:	
Tadayoshi Okada et al.	:	
Application No. 10/663,060	:	DECISION ON RENEWED PETITION
Filed: September 12, 2003	:	UNDER 37 C.F.R. §1.181(A)
Attorney Docket Number: A35998-074224.0118	:	AND PETITIONS UNDER 37 C.F.R. §§1.137(B), 1.182, AND 1.183
Title: HIGH-STRENGTH BOLTED CONNECTION STRUCTURE WITH NO FIRE PROTECTION	:	

This is a decision on the renewed petition under 37 C.F.R. §1.181(a), filed September 1, 2006, to withdraw the holding of abandonment, along with the concurrently filed petitions under 37 C.F.R. §§1.137(b), 1.182, and 1.183.

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 June 24, 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 obtained. Accordingly, the above-identified application became abandoned on September 25, 2005. A notice of abandonment was mailed on August 15, 2006.

The original petition under 37 C.F.R. §1.181(a) was submitted on January 11, 2006, and was dismissed via the mailing of a decision on March 16, 2006. The renewed petition under 37 C.F.R. §1.181(a) was submitted on June 16, 2006 and was dismissed via the mailing of a decision on July 17, 2006.

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

35 U.S.C. §133 sets forth, in toto:

> 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 Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.
> (Amended Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

37 C.F.R. §1.8(b) sets forth, *in toto*:

> (b) 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.

37 C.F.R. §1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.
>
> [47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

37 C.F.R. §1.137(b) sets forth, *in toto*:

> (b) Unintentional. If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination proceeding terminated under §§ 1.550(d) or 1.957(b) or (c), or a lapsed patent. A grantable petition pursuant to this paragraph 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 Director may require additional information where there is a question whether the delay was unintentional; and
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

37 C.F.R. §1.182 sets forth, *in toto*:

> 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 as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(f).
>
> [47 FR 41278, Sept. 17, 1982, effective date Oct. 1, 1982; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 69 FR 56481, Sept. 21, 2004, effective Nov. 22, 2004]

37 C.F.R. §1.183 sets forth, *in toto*:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).
>
> [47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 69 FR 56481, Sept. 21, 2004, effective Nov. 22, 2004]

ANALYSIS

The petition under 37 C.F.R. §1.181(a):

With the original petition under 37 C.F.R. §1.181(a), Petitioner asserted that on October 19, 2005, a response to the final Office action was timely submitted in conjunction with a one-month extension of time via facsimile transmission. Petitioner supplied a copy of this response with the original petition, and the response contained a certificate of facsimile transmission dated October 19, 2005. This response was considered by the Examiner, and it was determined by the same that it failed to place the application in condition for allowance. As such, the petition was dismissed via the mailing of a decision on March 16, 2006. An advisory action was included with this decision, indicating that the response which was submitted on January 11, 2006[1] failed to place this application in condition for allowance.

With the renewed petition under 37 C.F.R. §1.181(a), Petitioner asserted that the advisory action "apparently does not concern the facsimile after-final response of October 19, 2005...the enclosed Advisory Action concerns Petitioner's RCE filing of January 9, 2006[2]." The petition was dismissed as Petitioner had previously attested, over his registration number, that the documents which were enclosed with the original petition were the same documents which were presented to the Office on October 19, 2005[3]. It was indicated that if the two submissions were identical, if the advisory action concerned one submission, then it must concern the other.

With the present second renewed petition, Petitioner asserts that the undersigned misunderstood Petitioner's "assertion that the advisory action concerning the RCE filing of January 11, 2006 and does not concern the previous identical-content After Final response of October 19, 2005[4]." Petitioner asserts "applicants respectively submit that should no misunderstanding that this and the previous petitions are directed to timing and

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1 Petitioner affirmatively represented that the response which was submitted with the petition on January 11, 2006 is a copy of that which was originally transmitted to the Office on October 19, 2005.
2 Renewed petition, page 2.
3 Original petition, page 2.
4 Second renewed petition, page 2.

the improper retroactive 'holding of abandonment,' and not to the technical content of applicant's two submissions[5]."

The meaning of this sentence cannot be ascertained by the undersigned. Perhaps Petitioner is asserting that it was improper for the Office to review the after-final amendment of October 19, 2005 upon receipt of the same with the original petition of January 11, 2006? If this is Petitioner's intent, Petitioner will note that it was not possible to review the amendment of October 19, 2005 on that date, as it was not received in the office until January 11, 2006. Petitioner will further note that the timing of the review of the after-final amendment is wholly independent of the validity of the reasoning contained therein.

The timeline of the significant events is as follows:

- June 24, 2005: mailing of the final Office action
- October 19, 2005: After-final amendment and one-month extension of time are submitted to the Office (submission is not received, but bears a certificate of facsimile transmission)
- December 24, 2005: six month anniversary of the mailing of the final Office action
- January 11, 2006: RCE is filed.
- March 6, 2006: Advisory Action is mailed, indicating that the amendment filed January 11, 2005 (which is the same amendment which was submitted on October 19, 2005 but not received by the Office) fails to place the application in condition for allowance.

Petitioner has asserted that since at the time of the filing of the RCE, there was no indication by the Office that the amendment of October 19, 2005 was either not acceptable or failed to place the application in condition for allowance. As such, the filing of the "Jan 11, 2006 RCE was timely[6]." Therefore, the holding of abandonment should be withdrawn and the RCE should be processed.

Petitioner is incorrect - the RCE was not timely filed. The RCE was filed on January 11, 2006, which is subsequent to the six month anniversary of the mailing of the final rejection. The final rejection was mailed on June 24, 2005. Petitioner will note the indication on the final rejection which clearly states

5 Id.
6 Id.

"in no event, however, may a reply be timely filed after SIX (6) MONTHS (emphasis included) from the mailing date of this communication."

Petitioner is reminded that pursuant to 35 U.S.C. §133 and 37 C.F.R. §1.134, the Office has no authority to enter a paper subsequent to the expiration of the six-month period for response.

As set forth in the decision on the renewed petition:

It is clear from rules 37 C.F.R. §§1.116 and 1.135 that abandonment of an application is risked when the applicant proffers an amendment after the mailing of a final Office action. The rule clearly indicates that the mere filing of an amendment does not relieve applicant of the duty to take appropriate action to save the application from abandonment.

If steps are not taken after final to maintain pendency prior to the expiration of the maximum extendable period for reply, the application will go abandoned. Put another way, the submission of an after final amendment which fails to place the application in condition for allowance will result in the abandonment of the application, unless one of the following four items is filed prior to the maximum extendable period for reply:

- a subsequent amendment which places the application in condition for allowance:
- a Notice of Appeal:
- a Request for a Continuation Application pursuant to 37 C.F.R. § 1.53(b), if applicable:
- a Request for Continued Examination pursuant to 37 C.F.R. §1.114, and;
- a Terminal Disclaimer, if applicable.

Petitioner received a final Office action, and submitted an after-final response, which failed to place the application in condition for allowance. Petitioner will note that had the after-final amendment placed the application in condition for allowance, consisted of a notice of appeal, or consisted of an RCE, the previous petition would have been granted, and the holding of abandonment would have been withdrawn. But such is not the case - Petitioner submitted an after-final amendment which failed to place the claims in condition for allowance. As such, *the after-final amendment, even if it had been received and processed when it was originally submitted, could not have been accepted, and the present application would have gone abandoned.*

Petitioner is effectively requesting that the Office accept the RCE, which was filed with the original petition, and treat the same as if it had been submitted along with the after-final amendment which failed to place the application in condition for allowance. This cannot be done, as the Office has no authority to accept a response as timely filed if filed after the maximum extendable period for reply (emphasis added).

Petitioner has further asserted that the advisory action "appears to be hurried and without proper examination[7]." Petitioner's negative assessment of the advisory action is not well taken. Petitioner submitted an after-final amendment which failed to place the application in condition for allowance, and was informed of the same. Petitioner adds that the advisory action is "perfunctory: it merely states that for 'purposes of appeal, the proposed amendments will be entered' but fails to append 'an explanation of how the new or amended claims would be rejected.' (See Advisory Action, Item #7)[8]."

It is noted that it does not appear that Petitioner has cited to any authority which requires the Examiner to append an explanation as to how the new or amended claims would be rejected. Petitioner will note that item number seven reads "for purposes of appeal, the proposed amendment(s)…will be entered and an explanation of how the new or amended claims would be rejected is provided below **or** appended (emphasis added)." Below this portion, the Examiner provided the following: "claim(s) rejected: 10-18."

Petitioner received a non-final Office action and a final Office action before submitting his after-final amendment. It appears that in lieu of an advisory action, Petitioner would have preferred a third Office action explaining the rationale for the rejection of the after-final amendment. It is noted that Petitioner has cited to no authority which would require the Examiner to provide any review of the after-final amendment which is more substantial than that which was provided to him via the Advisory Action of March 16, 2006, other than to merely characterize the advisory action as "perfunctory," "improper," and "unfair[9]."

Petitioner failed to submit the RCE until after the expiration of the maximum extendable period of response. Petitioner timely submitted an after-final amendment, however this amendment failed to place the application in condition for allowance. As such, the Examiner properly issued an advisory action, indicating the same. There does not appear to be any reason why the holding of abandonment should be withdrawn. It follows that the second renewed petition under 37 C.F.R. §1.181 must again be **DISMISED**.

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7 Second Renewed Petition, page 2.
8 Second Renewed Petition, pages 2-3.
9 Second Renewed Petition, page 3.

The petition under 37 C.F.R. §1.182:

The $400 fee associated with the filing of this petition has been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner has set forth that a petition under Rule §1.182 is appropriate, "because the rules do not provide for situations like here having 'a retroactive determination' and a 'perfunctory Advisory Action[10].'"

The rules clearly provide for the situation which Petitioner has found himself presented with. Petitioner received a final Office action, and in lieu of submitting his RCE in a timely manner, instead chose to submit another amendment. As set forth above, it is clear from rules 37 C.F.R. §§1.116 and 1.135 that abandonment of an application is risked when the applicant proffers an amendment after the mailing of a final Office action, Petitioner's dismissal of the Examiner's review as "retroactive" and his dismissal of the Examiner's work product as "perfunctory" notwithstanding.

It follows that the petition under 37 C.F.R. §1.182 must be **DISMISSED**.

The petition under 37 C.F.R. §1.183:

The $400 fee associated with the filing of this petition has been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner has requested the waiver of rules 37 C.F.R. §§1.113, 1.114, "1.117 petition fees," and 1.136 extension of time fees.

Regarding the request to waive 37 C.F.R. §1.114, it is not clear what portion of the rule he wishes to have waived.

Regarding the request to waive 37 C.F.R. §1.117, it is noted that there is no Rule §1.117. Rule §1.117 has been reserved. As such, there is nothing to waive.

Regarding the request to waive 37 C.F.R. §1.136, Petitioner will note that an extension of time under 37 C.F.R. §1.136 must be filed prior to the expiration of the maximum extendable period

10 Second Renewed Petition, page 3.

for reply[11]. Accordingly, no extensions of time are required or possible, as the maximum extendable period for reply has already passed. As such, the rule is inapplicable.

A discussion on the request to waive 37 C.F.R. §§1.113 follows. 37 C.F.R. §1.113 sets forth, *in toto*:

> (a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicant's, or for ex parte reexaminations filed under § 1.510, patent owner's reply is limited to appeal in the case of rejection of any claim (§ 41.31 of this title), or to amendment as specified in § 1.114 or § 1.116. Petition may be taken to the Director in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). Reply to a final rejection or action must comply with § 1.114 or paragraph (c) of this section. For final actions in an inter partes reexamination filed under § 1.913, see § 1.953.
> (b) In making such final rejection, the examiner shall repeat or state all grounds of rejection then considered applicable to the claims in the application, clearly stating the reasons in support thereof.
> (c) Reply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form.
> [24 FR 10332, Dec. 22, 1959; 46 FR 29182, May 29, 1981; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 FR 14865, Mar. 20, 2000, effective May 29, 2000 (adopted as final, 65 FR 50092, Aug. 16, 2000); para. (a) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; para. (a) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

Petitioner seeks the waiver of this rule so that finality can be lifted on the Office Action of June 24, 2005.

In order to submit a grantable petition under 37 C.F.R. 1.183, a petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

Petitioner has not established that either condition exists in this case.

The circumstances of this case do not demonstrate an extraordinary situation, much less one where justice requires waiver of the rules. Applicant received a non-final Office action on January 14, 2005, and submitted an amendment on April

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11 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

18, 2005. The amendment was considered by the Examiner, and was not deemed to place the application in condition for allowance. Consequently, the rejection of this amendment was made final. 37 C.F.R. §1.113, the rule which Petitioner seeks the waiver of, sets forth that on the second examination, the rejection may be made final. There does not appear to be anything extraordinary about a situation where on second examination, the rejection was made final.

Petitioner has provided no explanation as to what makes his situation extraordinary, other than to merely assert the same.

Furthermore, since the PTO did not cause or contribute to Petitioner's failure to provide allowable claims in the amendment provided after receiving the non-final Office action, this case is even further removed from consideration as one where "justice requires" equitable relief[12]. In the final rejection, the Examiner concluded that Petitioner's claims were unpatentable over a particular patent. Petitioner then submitted an amendment containing claims which were not deemed to be distinguishable over the prior art: this is not an "extraordinary situation" where "justice requires" an extraordinary remedy.

It follows that Petitioner's circumstances are not extraordinary, and justice fails to require waiver of Rule §1.113.

The petition under 37 C.F.R. §1.183 is **DISMISSED**.

The petition under 37 C.F.R. §1.137(b):

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;

12 See Helfgott & Karras, P.C. v. Dickinson, 209 F.3d 1328, 54 USPQ2d 1425 (Fed. Cir. 2000).

(4) Any terminal disclaimer (and fee as set forth in §1.20(d)).

The $1500 fee associated with the filing of this petition has been charged to Petitioner's Deposit Account, as authorized in the petition.

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. Petitioner has previously submitted a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 and the associated fee.

No terminal disclaimer is required. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The previously submitted amendment shall serve as the required submission.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment of May 30, 2006 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[13]. 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WWW.USPTO.GOV

Paper No. None

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JAN 30 2007

OFFICE OF PETITIONS

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of	:	
Tadayoshi Okada et al.	:	
Application No. 10/663,060	:	DECISION ON THIRD RENEWED
Filed: September 12, 2003	:	UNDER 37 C.F.R. §1.181(A)
Attorney Docket Number: A35998-074224.0118	:	AND PETITIONS UNDER 37 C.F.R. §§1.137(B), 1.182 AND 1.183
Title: HIGH-STRENGTH BOLTED CONNECTION STRUCTURE WITH NO FIRE PROTECTION	:	

This is a decision on the "Request for Reconsideration of Second Renewed Petition to Withdraw Holding of Abandonment under 37 C.F.R. §1.181(a)," filed January 8, 2007.

Procedural History

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 June 24, 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 obtained. Accordingly, the above-identified application became abandoned on September 25, 2005. A notice of abandonment was mailed on August 15, 2006.

The original petition under 37 C.F.R. §1.181(a) was submitted on January 11, 2006, and was dismissed via the mailing of a decision on March 16, 2006.

The renewed petition under 37 C.F.R. §1.181(a) was submitted on June 16, 2006 and was dismissed via the mailing of a decision on July 17, 2006.

The second renewed petition pursuant to 37 C.F.R. §§1.137(b), 1.181, 1.182, and 1.183 was filed on September 1, 2006. A decision was mailed on October 2, 2006, granting the petition pursuant to 37 C.F.R. §1.137(b) and dismissing the petitions pursuant to 37 C.F.R. §§1.181, 1.182, and 1.183. As such, the present application was revived, and the Technology Center was notified of the decision so that the Request for Continued Examination (RCE) could be processed.

Analysis

With this second renewed petition, Petitioner has asserted that "in their renewed Petition filed September 1, 2006 ("Renewed Petition") applicants respectfully requested…waiver of fees associated with the filing of the petition and alternate petitions therein[1]." This assertion appears to be incorrect. The undersigned has reviewed the petition in question, and has not located any such request for the waiver of the associated fees.

Petitioner has further asserted that the "October decision withdraws the holding of abandonment[2]…" This is factually incorrect. The petition pursuant to 37 C.F.R. §1.181(a) was dismissed. Consequently, the holding of abandonment was deemed to be proper, and was not withdrawn. Rather the petition pursuant to 37 C.F.R. §1.137(b) was granted, and the present application was consequently revived.

With this second renewed petition, Petitioner has requested "reconsideration and reversal of the fee charges for 37 C.F.R. §§1.137(b), 1.182, and 1.183 petitions" due to the alleged presence of an extraordinary situation.

Petitioner's request is **DISMISSED AS MOOT.**

Petitioner filed a plurality of petitions, and requested the Office to consider these petitions. Petitioner is a registered practitioner, and as such, he is expected to be aware of the fact that the consideration of a petition requires the submission of the associated fee. Petitioner will note:

---

1 Second renewed petition, page 2.
2 Id.

- 37 C.F.R. §1.137(b) explicitly sets forth "a grantable petition pursuant to this paragraph must be accompanied by…the petition fee as set forth in § 1.17(l)."
- 37 C.F.R. §1.182 explicitly sets forth "any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(f)."
- 37 C.F.R. §1.182 explicitly sets forth "any petition under this section must be accompanied by the petition fee set forth in § 1.17(f)."

Petitioner received the relief he requested, the application was revived, and consequently, the issue is moot.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ELEY LAW FIRM CO.
7870 OLENTANGY RIVER RD
SUITE 311
COLUMBUS OH 43235

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JAN 16 2008

OFFICE OF PETITIONS

In re Application of :
Zaki A. Khan et al. :
Application No. 10/663,064 : ON PETITION
Filed: September 16, 2003 :
Attorney Docket No. E59121.006 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit a proper response to the final office action mailed November 22, 2006, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on February 23, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to Technology Center Art Unit 3636 for processing of the RCE papers.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

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FEB 0 6 2008

OFFICE OF PETITIONS

In re Application of
Hiroshi FUNADA et al.
Application No. 10/663,077
Filed: September 16, 2003
Attorney Docket No. CU-6013

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 30, 2006, which set a shortened statutory period for reply of three (3) months. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 31, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of October 30, 2006 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results

in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)-272-4231.

This application is being referred to Technology Center AU 1756 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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COLEMAN SUDOL SAPONE, P.C.
714 Colorado Avenue
Bridgeport, CT 06605-1601

Mail Date: 04/21/2010

Applicant	: Peter J. Wilk	: DECISION ON REQUEST FOR
Patent Number	: 7597665	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/663,084	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1785** 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

SEP 20 2004

Commissioner for Patents
United States Patent and Trademark Office
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In re Application of : Ricky L. Durbin : DECISION ON PETITION
Application No. 10/663,114 :
Filed: September 16, 2003 :
Attorney Docket No. 00313-1001 :

This is a decision on the petition to make special filed on September 16, 2003. The petition is based upon the practice described in MPEP § 708.02(V) "Environmental Quality" and MPEP § 708.02(VI) "Energy." Therefore, no petition fee is required.

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. Prior to the next 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 3749 is being informed of this decision, and will advise the examiner to take future action consistent therewith. The granting of this petition is not to be taken as an endorsement of the invention that is disclosed and claimed.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner
Technology Center 3700

Wood, Phillips, Katz, Clark & Mortimer
500 W. Madison Street
Suite 3800
Chicago, IL 60661

UNITED STATES PATENT AND TRADEMARK OFFICE

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Long Beach CA 90807

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APR 10 2009

OFFICE OF PETITIONS

In re Patent No. 6,834,978
Issued: December 28, 2004
Application No: 10/663,119
Filed: September 12, 2003
Attorney Docket No. 106.11A

This is a decision on the petition, filed February 19, 2009, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued December 28, 2004, paying the 3.5-year maintenance fee expired at midnight December 28, 2008. Therefore, since the petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee of $490.00 and the surcharge of $1640.00 were received on February 19, 2009. The above-identified patent is hereby reinstated as of the mail date of this decision.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090909

DATE : September 09, 2009

TO SPE OF : ART UNIT 2185

SUBJECT : Request for Certificate of Correction on Patent No.: 7,346,755

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:

/Sanjiv Shah/
Supervisory Patent Examiner, Art Unit 2185

UNITED STATES PATENT AND TRADEMARK OFFICE

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Gerald Levy
Pitney, Hardin, Kipp & Szuch LLP
20th Floor
685 Third Avenue
New York, NY 10017

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JUL 16 2004

OFFICE OF PETITIONS

In re Application of :
Young, et al. :
Application No.: 10/663,154 : ON PETITION
Filed: NO FILING DATE :
Attorney Docket No.: 001674.093686 :

This is a decision on the petition filed June 16, 2004, titled "Petition to Accord Filing Date." The petition will be treated under 37 CFR 1.53.

The petition is **dismissed.**

The application was submitted on September 15, 2003. On May 18, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application indicating that no filing date was accorded the application because no specification and no claims were found among the application papers. The notice allowed a non-extendable period for reply of two months from its mailing date.

In response, the present petition was filed. Petitioner therein argued that the application papers did include a specification and claims. Petitioner provided a copy of the Office date-stamped postcard citing the following items as being received on September 15, 2003: a divisional application, assignment, declaration and power of attorney, check for $750.00, cover sheet, transmittal, Information Disclosure Statement, and Form PTO-1449. Petitioner maintains that this postcard is *prima facie* evidence that a specification and claims were received on September 15, 2003.

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 the only items received on September 15, 2003, were the oath, the transmittal sheet, coversheet, $750.00 check, and Information Disclosure Statement. Absent evidence to the contrary, there is a strong presumption that the Office records are accurate. Applicant's postcard does not provide sufficient evidence to overcome this presumption as the itemization only states that a divisional application was enclosed without any intimation of what the application entailed. Further to this point, Section 503 of the *Manual of Patent Examining Procedure* (MPEP) states, in pertinent part,:

> The identifying data on the postcard should include:
>
> A. applicant's name(s);
> B. title of invention;
> C. number of pages of specification, claims (for nonprovisional applications, and sheets of drawings;
> D. whether oath or declaration is included;
> E. a list of any additional forms included with the application (e.g., application transmittal form, application data sheet, fee transmittal form, and/or provisional application cover sheet); and
> F. amount and manner of paying the fee.
>
> A return postcard should be attached to each patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each component 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.)

The aforementioned section of the MPEP makes clear that applicant's listing on the postcard of only a "divisional application" as being filed on September 15, 2003, cannot serve as *prima facie* evidence that a specification and claims were received. Accordingly, the application cannot be accorded a filing date of September 15, 2003, without further proof. **Petitioner is allowed a two-month period being from the mailing date of this decision to either provide sufficient proof that the specification and claims accompanied the original application papers, or file an oath or declaration covering the missing items and accepting the date the missing items were received as the application filing date. If no response is received in the two-month period, the application will be terminated in accordance with 37 CFR 1.53(e).**

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

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1460
Alexandria, VA 22313-1460

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

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

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Gerald Levy
Pitney, Hardin, Kipp & Szuch LLP
20th Floor
685 Third Avenue
New York, NY 10017

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SEP 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Young, et al. :
Application No.: 10/663,154 :
Filed: September 15, 2003 :
Attorney Docket No.: 001674.093686 :

ON PETITION

This a decision on the petition filed August 19, 2004. The petition will be treated under 37 CFR 1.182 in accordance with 37 CFR 1.53(e)(2).

The petition is **granted.**

The subject non-provisional application was filed on September 15, 2003. On May 18, 2004, the Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application indicating that the application had not been accorded a filing date because no specification and no claims were found with the application papers. The notice allowed a two-month period for reply. A petition was filed on June 26, 2004, and dismissed by a decision mailed July 16, 2004. The instant petition was filed on August 19, 2004.

Petitioner maintains that the subject application was complete on filing because it is a divisional application of application 09/808,769 and included a statement incorporating by reference the prior application in its entirety.

In view of the incorporation by reference statement found in the application transmittal form, the application will be accorded a filing date of September 15, 2003. The examiner assigned to this application will be expected to compare the specification and claims filed with the instant petition with those contained in application 09/808,769 to be sure the specification and claims of application 10/663,154 do not contain new matter.

The application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of September 15, 2003.

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

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MERCHANT AND GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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APR 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Frederic DeSauvage, et al	:	
Application No. 10/663,158	:	DECISION ON PETITION
Filed: September 15, 2003	:	TO WITHDRAW
Attorney Docket No. 11669.123USC1	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

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

Sarah M. Monfeldt has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed on March 22, 2007 that requires a reply by 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

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SEP 9 2005

In re Application of	:	
Thomas P. Jerussi et al	:	NOTICE OF WITHDRAWAL
Serial No. 10/663,173	:	FROM ISSUE
Filed: September 16, 2003	:	UNDER 37 CFR 1.313(b)
For: TREATMENT OF CNS DISORDERS WITH TRANS 4-(3,4-DICHLOROPHENYL)-1,2,3,4-TETRAHYDRO-1-NAPTHALENAMINE AND ITS FORMAMIDE	:	

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

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

George C. Elliott

George C. Elliott, Director
Technology Center 1600

HESLIN ROTHENBERG FARLEY & MESITI P.C.
5 COLUMBIA CIRCLE
ALBANY NY 12203

cc: Allowed Files
Drafting Branch

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/20/06

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/663173** Patent No.: **7087785**

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. 23

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: _____

Proposed corrections are approved.

BJD
11/22/06

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1621
Art Unit

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

PULSE-LINK, INC.
1969 KELLOGG AVENUE
CARLSBAD CA 92008

In re Application of:
John SANTHOFF, et al.
Application No.: 10/663,174
Filed: September 15, 2003
For: ULTRA-WIDEBAND
COMMUNICATION PROTOCOL

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed July 6, 2004 under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, to make the above-identified application special.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d), states in relevant part:

International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The specification and claims as originally filed provide no indication of an intention to counter terrorism by providing an ultra-wideband communication network. The claimed invention fails to indicate countering terrorism. Further steps would be required to actually offset or nullify terrorism, yet no suggestion of "countering terrorism" is found in the disclosure. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Accordingly the Petition is **DENIED**.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

It is suggested that applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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Haynes Beffel & Wolfeld LLP
P. O. Box 366
Half Moon Bay, CA 94019

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Jerry A. Speasl, et al. :
Application No. 10/663,183 : DECISION GRANTING PETITION
Filed: September 16, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. JMZ 1000-1US :

This is a decision on the petition, filed February 23, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on September 7, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of June 23, 2005 accompanies this decision on petition.

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

This application is being referred to the Office of Initial Patent Examination for further processing. Thereafter, the application will be referred to Technology Center Art Unit 2800 for examination in due course.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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MENLO PARK CA 94025

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OFFICE OF PETITIONS

In re Application of
Shellenberger
Application No. 10/663,187
Filed: September 15, 2003
Attorney Docket No. 02351.0007.NPUS01
For: METHOD OF TREATING TREMORS

: DECISION GRANTING
: PETITION

This is a decision on the paper entitled, " REQUEST FOR CORRECTING FILING DATE," filed October 23, 2003, requesting that the above-identified application be accorded a filing date of September 15, 2003, rather than September 16, 2003, which is the date stamped on the return receipt postcard for the application. The paper will be treated as a petition under 37 CFR 1.10(c).

Petitioner requests the earlier filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on September 15, 2003, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EL615430073US showing no "date-in" **and** a USPS date stamp of SEP 15, 2003. The same Express Mail label number is listed on the original Utility Patent Application Transmittal found in the application file.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EL615430073US was deposited with the USPS on September 15, 2003.

Accordingly, the petition is granted.

No fee has been or will be charged in connection with this petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **September 15, 2003** and the mailing of a filing receipt reflecting the correct filing date.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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HUSCH & EPPENBERGER, LLC
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS MO 63105-3441

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of
McMillen, et al.
Application No. 10/663,194
Filed: February 9, 2004
Attorney Docket No. 41575-208
For: AUTOMATICALLY ACTUATING ERGONOMIC SUPPORT FOR A FOLD DOWN SEAT

: DECISION GRANTING
: PETITION

This is a decision on the petition, filed February 22, 2005, requesting that the above-identified application be accorded a filing date of September 16, 2003, instead of the presently accorded filing date of February 9, 2004. The petition will be treated under 37 CFR 1.182

The petition under 37 CFR 1.182 is **GRANTED**.

The application was filed on September 16, 2003. On December 9, 2003, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice") stating that the application had been accorded a filing date of September 16, 2003 and informing petitioners, *inter alia*, that Figure 18 appeared to have been omitted.

On February 9, 2004, petitioners filed replacement drawings that included one labeled Figure 18. Petitioners stated that Figure 17 and 18 are identical illustrations except for numeral references and associated lead lines.

The Office processed these drawings and assigned a February 9, 2004 filing date the application.

On September 10, 2004, petitioners filed a paper entitled, "AMENDMENT AND REQUEST FOR CORRECTED FILING RECEIPT," stating that due to clerical error, applicants mistakenly submitted two formal versions of Figure 17 on February 9, 2004. The version labeled "Figure 17" was an improperly-rendered formal version of the figure. The drawing labeled "Figure 18" was the most accurate substitution for originally filed informal Figure 17. Applicants submitted an amendment eliminating references to Figure 18 and replacement drawings of Figures 1-17.

A formal request for corrected filing receipt, filed January 19, 2005 was dismissed on February 3, 2005 because a petition was required.

Petitioner filed the instant petition on February 22, 2005, requesting yet again that the Office reinstate the September 16, 2003 filing date for the above-identified application.

The mailing of a Notice regarding omitted items permits an applicant to either: (1) promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)). Failure to select option (1) or (2) above is considered a constructive acceptance of the application as filed.

In the instant case, petitioner did not select option (1) or (2). Instead, on February 9, 2004, petitioners submitted Figure 18 and argued that Figure 17 and 18 are virtually identical. However, new matter is not the issue. Either the drawing of Figure 18 was present upon the filing of the application, or it was not. Petitioners did not prove a drawing labeled "Figure 18" was filed on September 16, 2003. Therefore, the application could not be processed with a filing date of September 16, 2003 with Figure 18 as part of the original application papers. The Office properly changed the application's filing date to February 9, 2004.

Petitioners retreated from their earlier position and cancelled Figure 18 and amended the specification to eliminate references to Figure 18 on September 10, 2004. Petitioners, in essence, accepted the application as filed.

Therefore, the petition to reinstate a filing date of September 16, 2003 to the application is **GRANTED**.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of **September 16, 2003** and the mailing of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center 3600 for examination in due course.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/27/06

TO SPE OF : ART UNIT 3611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/663231 Patent No.: 6988739

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

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

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

Certificates of Correction Branch

703-308-9390 ext. 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: _____

Lesley D Morris — SPE

3611 — Art Unit

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C/O IP DOCKETING DEPARTMENT
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FALLS CHURCH, VA 22042-2924

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MAR 15 2010

OFFICE OF PETITIONS

In re Patent No. 6,958,849 :
Issue Date: October 25, 2005 :
Application No. 10/663,249 : NOTICE
Filed: September 15, 2003 :
Attorney Docket No. 07783.0070.NPUS01 :

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

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OFFICE OF PETITIONS

In re Application of :
KORCHAGIN et al. :
Application No. 10/663,260 :
Filed: September 16, 2003 :
Attorney Docket No. 2003-10.VBT :

Muriel Ciprian (Ciprian) and Vladmir Bararushkin (Bararushkin) have filed numerous papers in the above-identified application with the United States Patent and Trademark Office (USPTO).

Applicants for patents may file and prosecute their own patent applications or they may be represented by a registered attorney, registered agent, or other individual authorized to practice before the USPTO in patent matters. See 37 CFR 11.6 and 11.9(a). The USPTO cannot aid in the selection of a registered attorney or agent. See 37 CFR 1.31.

An examination of this application reveals that applicants have attempted to appoint or to use Ciprian and Bararushkin, neither of whom are registered to practice before the USPTO in patent matters or have not been granted limited recognition under 37 CFR 11.9(a) to represent the applicants. Moreover, Ciprian is not a named inventors in the application, and there is no evidence that Ciprian and Bararushkin are assignees of the entire interest in the application. The attempt to appoint or use Ciprian and Bararushkin is contrary to the Code of Federal Regulations, 37 CFR 1.31 and 1.32. Therefore, the appointment and use is void, *ab initio*. We will not recognize the appointment.

The present application has been filed by joint inventors. A single inventor may prosecute the application when the other joint inventor has given him or her power of attorney. See 37 CFR 1.32(c)(1). The file does not include an appointment of a single inventor as power of attorney by the other joint inventors. Therefore, unless a registered patent attorney or agent is appointed to represent the inventors, or a power of attorney is given to one of the named inventors, all named inventors must sign all communications with the Office. See 37 CFR 1.33(b).

While an applicant may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. The efforts to appoint or use Ciprian and Bararushkin to prosecute the application suggest that applicants desire to be represented. Applicants are, therefore, encouraged 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.

A list of registered patent attorneys and agents is available on the USPTO Internet web site http://www.uspto.gov in the Site Index under "Attorney and Agent Roster, Patent." Applicants may also obtain a list of registered patent attorneys and agents located in a geographical region by writing to Mail Stop OED, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Any communications submitted to the USPTO by an inappropriate party will not be recognized and simply placed in the above-identified application. No further action will be taken.

Brian Hearn
Petitions Examiner
Office of Petitions

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Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111

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APR 24 2009

OFFICE OF PETITIONS

In re Application of :
Nicholas W. Warne et al. :
Application No. 10/663,264 : ON PETITION
Filed: September 16, 2003 :
Attorney Docket No. 22058-544 (AM100664) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) 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 August 6, 2008. A three month extension of time under the provisions of 37 CFR 1.136(a) was obtained. The appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on August 7, 2008. See MPEP 1215.04. A Notice of Abandonment was mailed on April 1, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b), (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the filing of a continuing application under 37 CFR 1.53(b) is accepted as being unintentionally delayed.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of a continuing application under 37 CFR 1.53(b).

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

Carl Friedman
Petitions Examiner
Office of Petitions

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Hilda Virginia Martin
400 Gloucester Street
Hampton VA 23661

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APR 2 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Martin et al.	:	
Application No.: 10/663275	:	DECISION ON
Filing or 371(c) Date: 09/16/2003	:	PETITION
Title of Invention:	:	
LAPTOP BIBLE/BOOK HOLDER	:	

This is a decision in response to the correspondence framed as a grievance report, filed May 9, 2006. The correspondence is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final office action, mailed September 8, 2004. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on December 9, 2004. A Notice of Abandonment was mailed April 26, 2005.

The present petition

Applicant files the present Petition and asserts that a timely reply to the Office action was filed.

Analysis

A review of office records reveals that the Office received an Amendment and Drawings in response to the Office action on November 22, 2004.

Conclusion

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 3632 for processing of the Amendment and drawings.

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

Derek L. Woods
Attorney
Office of Petitions

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TAMSEN VALOIR, PH.D.
BAKER & MCKENZIE LLP
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711 LOUISIANA, SUITE 3400
HOUSTON TX 77002-2746

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MAY 02 2007

OFFICE OF PETITIONS

In re Application of :
Scurati et al. :
Application No. 10/663,286 : DECISION ON PETITION UNDER
Filed: May 24, 2001 : 37 CFR 1.78(a)(3) & 1.55(c)
Attorney Docket No. 24772-10602 :

This is a decision on the AMENDED PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 37 CFR 1.78(a)(3) AND 37 CFR 1.55(c) filed April 25, 2007. Applicants petition to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed application No. 09/545,260 and under 35 U.S.C. § 119(a)-(d) for the benefit of prior-filed foreign application No. 99830206.1. Both claims are set forth in the amendment filed April 25, 2007. The foreign claim is also set forth in the declaration filed January 8, 2007.

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

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 where there is a question whether the delay was unintentional.

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).

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

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

The petition is GRANTED.

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 instant application was filed on September 16, 2003 and is currently pending. The petition includes an amendment submitting the claim and the foreign application is properly identified therein. Furthermore, the declaration filed January 8, 2007 includes identification of the foreign priority claim by application number, country and filing date. The petition includes payment of the surcharge. The instant application claims priority to nonprovisional application No. 09/545,260 ('260 application), and was filed on September 16, 2003, before the '260 application issued into a patent. The intermediate '260 application was filed within 12 months of the filing date of the foreign application No. 99830206.1. All requirements being met, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as 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 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) and 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 2618 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. §§ 120 and 119(a)-(d) to the prior-filed applications. The application is also being referred to the Technology Center Art Unit for consideration by a primary examiner of the REQUEST TO CORRECT INVENTORSHIP UNDER 37 CFR 1.48(a) filed January 8, 2007.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/663,286	09/16/2003	1744	2280	31175803-004001	53	5

CONFIRMATION NO. 3225

CORRECTED FILING RECEIPT

52356
TAMSEN VALOIR, PH.D.
BAKER & MCKENZIE LLP
PENNZOIL PLACE, SOUTH TOWER
711 LOUISIANA, SUITE 3400
HOUSTON, TX77002-2746

Date Mailed: 04/27/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Mario Scurati, Milano, ITALY;
Ubaldo Mastromatteo, Bareggio, ITALY;
Michele Palmieri, Agratebrianza, ITALY;
Gabriele Barlocchi, Cornaredo, ITALY;
Flavio Villa, Milano, ITALY;

Assignment For Published Patent Application

STMicroelectronics S.r.l., Agrate Brianza, ITALY

Power of Attorney: The patent practitioners associated with Customer Number 52356

Domestic Priority data as claimed by applicant

This application is a DIV of 09/545,260 04/07/2000 PAT 6,670,257

Foreign Applications

ITALY TO2002A 000808 09/17/2002
EUROPEAN PATENT OFFICE (EPO) 99830206.1 04/09/1999

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/663,286**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Integrated device for biological analyses

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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

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FEB 10 2006

OFFICE OF PETITIONS

In re Application of :
Haichao Liu, et al. :
Application No. 10/663,299 : ON PETITION
Filed: September 15, 2003 :
Attorney Docket No. 02307V-139100US :

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed March 29, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned at midnight on April 29, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of an Amendment (Restriction Requirement); (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed November 18, 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 referred to Technology Center 1600, Art Unit 1621 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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KATHLEEN M. HARLESTON
THE HARLESTON LAW FIRM
909 TALL PINE ROAD
MT. PLEASANT, SC 29464

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of :
Ernest Adolph Rodenberg III et al :
Application No. 10/663,313 : DECISION GRANTING PETITION
Filed: September 16, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 8028 :

This is a decision on the petition, filed September 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2863 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,322	09/16/2003	John D. Hottovy	CPCM:0017/FLE 210328US1	1334

47514 7590 04/27/2010

FLETCHER YODER (CHEVRON PHILLIPS)
P. O. BOX 692289
HOUSTON, TX 77069

EXAMINER	
NECKEL, ALEXA DOROSHENK	

ART UNIT	PAPER NUMBER
1764	

MAIL DATE	DELIVERY MODE
04/27/2010	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

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Mailed:

In re application of	:	
John D. Hottovy et al.	:	DECISION ON
Serial No. 10/663,322	:	PETITION
Filed: September 16, 2003	:	
For: PUMPING APPRATUS FOR SLURRY POLYMERIZATION IN LOOP REACTORS	:	

This is a response to the REQUEST TO CORRECT INVENTORSHIP UNDER RULE 37 CFR § 1.323 AND 1.324 filed on August 6, 2007.

Petitioners request amendment of the inventorship to add Donald Paul Russell as a joint inventor. In support of the petition, a request, signed by a party set forth in § 1.324(b) to correct the inventorship which includes a statement from the person who is being added as an inventor that the inventorship error occurred without any deceptive intention on his part; statements from the current named inventors agreeing to the change of inventorship; a statement from the assignee agreeing to the change of inventorship; and the processing fee set forth in § 1.20(b) have been filed.

A review of the record reveals that petitioner has complied with all the conditions in 37 CFR § 1.324. The petition is granted. A correct filing receipt naming the actual inventors of the above-identified patent, namely, John D. Hottovy, Dale A. Zellers, Robert K. Franklin, and Donald Paul Russell, is attached.

The Petition is **GRANTED**.

Alexa Neckel
Supervisory Patent Examiner
Art Unit 1795

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OFFICE OF PETITIONS

DAYCO PRODUCTS, LLC
1 PRESTIGE PLACE
MIAMISBURG, OH 45342

In re Application of
Harold D. Beck, et al.
Application No. 10/663,324
Filed: September 15, 2003
Attorney Docket No. 03-11

ON PETITION

This is a decision in response to the petition, filed April 13, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed October 5, 2006. April 13, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on April 19, 2007.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee submitted with the petition on March 16, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to Technology Center AU 1772 for consideration of the amendment filed April 13, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAYCO PRODUCTS, LLC
1 PRESTIGE PLACE
MIAMISBURG, OH 45342

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Harold D. Beck :
Application No. 10/663,324 : DECISION ON PETITION
Filed: September 15, 2003 : TO WITHDRAW
Attorney Docket No. 03-11 : 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 June 26, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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 undersigned at 571-272-1642.

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

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: FLUID ROUTING SOLOUTIONS, INC.
3000 TOWN CENTER
SUITE 2800
SOUTHIFIELD, MI 48075

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485 Seventh Avenue. 14th Floor
New York, NY 10018

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JUN 27 2006

OFFICE OF PETITIONS

In re Application of :
Obendiek et al :
Application No. 10/663,333 : DECISION ON PETITION
Filed: September 16, 2003 :
Attorney Docket No. 487.1084 :

This is a decision on the petition filed March 9, 2006, to withdraw the holding of abandonment. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On June 15, 2005, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. On February 13, 2006, the Office mailed a Notice of Abandonment. On March 9, 2006, petitioner filed the present petition to withdraw the holding of abandonment in the above-identified application.

In the petition, petitioner stated the Notice of Abandonment indicated that the Office did not receive a reply to the final Office action. Petitioner asserted that petitioner submitted a response on September 15, 2005 (certificate of mailing dated September 13, 2005) as evidenced by the returned, date-stamped postcard receipt. Petitioner submitted copies of the response and the returned, date-stamped postcard receipt with the present petition.

DISCUSSION

Initially, the Office must determine whether the application is, in fact, abandoned. Namely, the Office must review the present petition to evaluate if petitioner's assertions merely involve the cause of the abandonment. Therefore, where there is no dispute as to whether an application is abandoned because no disagreement exists regarding the sufficiency of the reply or controlling dates, the filing of a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment would be inappropriate. See MPEP 711.03(c)(I). Instead, a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. See MPEP 711.03(c)(I).

Upon reviewing petitioner's response to the final Office action, the Examiner issued an Advisory Action Before the Filing of an Appeal Brief, which is enclosed. As stated in the Advisory Action,

petitioner's reply filed on September 13, 2005, failed to place this application in condition for allowance. A response to a final Office action may be entered if it places the application in condition for allowance. However, the admission or refusal to admit an amendment after a final rejection will not operate to relieve the application from its condition. Further, the entry of an amendment after a final rejection is not a matter of right.

In the present case, it is regrettable that the Office did not mail an Advisory Action until the date of this decision; however, it is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment is filed after a final Office action. Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action, not by the mailing of an Office communication, such an Advisory Action.[1] The mere filing of an amendment in response to a final Office action does not save the application from abandonment. Rather, the filing of a Notice of Appeal, a Request for Continued Examination accompanied by a proper submission, or a continuing application in response to a final rejection guarantees the pendency of the application.

CONCLUSION

The application is currently abandoned due to petitioner's failure to submit a proper response to the final Office action. Under the circumstances of this case, the application did not become abandoned due to a delay in reviewing the amendment or the mailing of the Advisory Action or any other error on the part of the U.S. Patent and Trademark Office. Accordingly, the petition to withdraw the holding of abandonment is **dismissed**. The application will remain in its abandoned state until petitioner files a petition to revive the application (accompanied by the appropriate petition fee).

The Office strongly encourages petitioner to file a petition under 37 CFR 1.137(b) on the basis of unintentional delay.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The required reply to the outstanding Office action;

(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 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

[1] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-30 (CCPA 1964); Krahn v. Comm'r, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1984).

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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New York, NY 10018

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OFFICE OF PETITIONS

In re Application of :
Obendiek et al :
Application No. 10/663,333 : DECISION ON PETITION
Filed: September 16, 2003 :
Attorney Docket No. 487.1084 :

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

The petition is **granted**.

On June 15, 2005, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. On February 13, 2006, the Office mailed a Notice of Abandonment.

In the present petition, petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a request for continued examination and a submission, paid the petition fee, and made the proper statement of unintentional delay.

This matter is being referred to Technology Center Art Unit 3612.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,341	09/15/2003	Jesper Theil Hansen	M61.12-0529	1618

27366 7590 04/17/2008
WESTMAN CHAMPLIN (MICROSOFT CORPORATION)
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3319

EXAMINER	
KIM, PAUL	

ART UNIT	PAPER NUMBER
2161	

MAIL DATE	DELIVERY MODE
04/17/2008	PAPER

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

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

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Theodore M. Magee
WESTMAN, CHAMPLIN & KELLY, P.A.
900 Second Avenue, Suite 1400
Minneapolis, Minnesota 55402-3319

In re Application of:
Jesper Theil HANSEN
Application No. 10/663,341
Filed: September 15, 2003
For: FREE TEXT SEARCH WITHIN A RELATIONAL DATABASE

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition, filed 07 June 2007, under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Final rejection mailed 07 February 2007.

The petition is **DISMISSED AS MOOT**.

A review of the application file record indicates that a Request for Continued Examination (RCE) with the required fee was filed on 09 August 2007.

37 C.F.R. § 1.114(d) states, in part:

> If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request for continued examination ...

Pursuant to 37 C.F.R. § 1.114(d), the amendment filed 10 April 2007 was entered and forwarded to the examiner to consider. A non-final Office Action was mailed on 26 March 2008.

Accordingly, the petition is **DISMISSED AS MOOT.**

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

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

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MAY - 4 2004

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of	:
David Lisonbee et al	:
Serial No.: 10/663,353	: PETITION TO MAKE SPECIAL
Filed: September 15, 2003	:
Attorney Docket No.: 2820-5964	:

This is in response to applicants' petition filed February 26, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has not satisfied the provisions set forth in M.P.E.P. 708.02, II, relating to actual or potential infringement. Therefor the petition is **DISMISSED**.

Applicants' petition indicates the "making of a careful and thorough search" and that "all of the references...located...are already of record...in the application. Accordingly no additional references are supplied." However, no references are of record in the application and no listing of references was supplied. One or two US Patents are noted in the specification, however this does not satisfy the requirement set forth in M.P.E.P. 708.02, II. Some indication of the area searched and a listing of references discovered which are most closely related to the claimed subject matter is required.

In addition, some evidence of an allegedly infringing product identified by name, trademark, etc., should be presented where it is alleged that a product is infringed.

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.

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

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JUL - 9 2004

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of	:
David Lisonbee et al	:
Serial No.: 10/663,353	: PETITION TO MAKE SPECIAL
Filed: September 15, 2003	:
Attorney Docket No.: 2820-5964	:

This is in response to applicants' petition filed June 10, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II, 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 703-872-9306.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 06/11/2010

Applicant	: Joerg Beringer	: DECISION ON REQUEST FOR
Patent Number	: 7634737	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/663,365	: 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 **636** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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REED SMITH CROSBY HEAFEY LLP
1901 AVENUE OF THE STARS, SUITE 700
LOS ANGELES, CA 90067

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OFFICE OF PETITIONS

In re Application of :
Douglas Peery :
Application No. 10/663,392 :
Filed: September 16, 2003 :
Attorney Docket No. 358072.00100 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition to Withdraw from Holding of Abandonment under 37 CFR 1.181 filed on March 5, 2005.

A Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed to applicant on December 9, 2003, which set a two-month period for reply. Since no reply was allegedly received, the application became abandoned on February 10, 2004.

Petitioner has provided a copy of the post card receipt, which shows that the reply to the Notice was timely received in the USPTO on January 23, 2004. In view thereof, the application was improperly held abandoned.

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

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

Any inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229.

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

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

cc: Stefan J. Kirchanski
Liner Yankelevitz Sunshine & Regenstreif LLP
1100 Glendon Avenue, 14th Floor
Los Angeles, CA 90024

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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REED SMITH CROSBY HEAFEY LLP
1901 AVENUE OF THE STARS, SUITE 700
LOS ANGELES, CA 90067

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MAY 11 2005

OFFICE OF PETITIONS

In re Application of :
Douglas Peery :
Application No. 10/663,392 :
Filed: September 16, 2003 :
Attorney Docket No. 358072.00100 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed December 20, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED.**

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on September 10, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

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

Any inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229.

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

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

cc: Stefan J. Kirchanski
Liner Yankelevitz Sunshine & Regenstreif LLP
1100 Glendon Avenue, 14th Floor
Los Angeles, CA 90024

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GEORGE S. LEVY
3980 DEL MAR MEADOWS
SAN DIEGO, CA 92130-2258

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JUN 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Sacks et al.	:	DECISION ON PETITION
Application No. 10/663,419	:	TO MAKE SPECIAL
Filed: September 16, 2003	:	37 CFR1.102(D)
Attorney Docket No. 031P6	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 22, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

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

The instant petition does not include any evidence of the applicant's age. Evidence could include a copy of the applicant's birth certificate, U.S. passport or driver's license. Petitioner could also submit a signed statement from the applicant, attesting to his age and date-of-birth.

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

By Mail:	Mail Stop PETITION Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450
By hand:	U. S. Patent and Trademark Office Customer Service Window, Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By FAX:	(571) 273-8300

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

This matter is being referred to the Technology Center Art Unit 3635 for action in its regular turn.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GEORGE S. LEVY
3980 DEL MAR MEADOWS
SAN DIEGO, CA 92130-2258

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Sacks et al.	:	
Application No. 10/663,419	:	ON PETITION
Filed: September 16, 2003	:	
Attorney Docket No. 031P6	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed June 12, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of the applicant's passport. Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to the Technology Center Art Unit 3635 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JUL 12 2007

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:
Stephen J. Doxsey	:
Serial No.: 10/663,433	: PETITION DECISION
Filed: September 15, 2003	:
Attorney Docket No.: 07917-162001	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed December 19, 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.

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

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MARK A. LITMAN & ASSOCIATED
YORK BUSINESS CENTER
SUITE 205
3209 WEST 76TH STREET
EDINA MN 55435

COPY MAILED

MAY 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Rodney G. Johnson	:	
Application No. 10/663,436	:	ON PETITION
Filed: September 15, 2003	:	
Attorney Docket No. PA0891.AP.US	:	

This is a decision on the petition, filed April 28, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 13, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3653 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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Paper No. _____

Date : May 4, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

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MAY 0 4 2006

OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Rodney G. Johnson
Application No. :10/663,436
Filed :September 15, 2003

The above-identified application has been assigned Patent No. 7,048,128 and an issue date of May 23, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 23, 2006:

> "All reference to Patent No. 7,048,128 to Rodney G. Johnson of Australia for SHUFFLING APPARATUS AND METHOD appearing in the Official Gazette of May 23, 2006 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/14/08

TO SPE OF : ART UNIT 2829 10/663,448

SUBJECT : Request for Certificate of Correction on Patent No.: 7,126,326

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 **7590, 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.

Delora Dillard
Certificates of Correction Branch
Tel. No. 703-308-9250 ext. 172

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 allowed claims are 1—12 dated on 5/8/2006. Please make correction on Patent No. 7,126,326. Thanks!

H Thompson
SPE

2829
Art Unit

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Arendt & Associates Intellectual Property Group
P.O. Box 299
Harvard, MA 01451-0299

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JUN 0 1 2009

OFFICE OF PETITIONS

In re Georg Muller :
Application No.: 10/663,448 : **DECISION**
Filed: September16, 2003 : **GRANTING-IN-PART**
Patent No.: 7,126,326 : **PETITION**
Issued: October 24, 2006 :

This is a decision on the February 16, 2007 petition titled "Petition Under 37 CFR 1.181(a) And 35 U.S.C. 254 For Correction Of Mistake In A Patent, Incurred Through The Fault Of The Patent And Trademark Office," which requests correction of U.S. Patent No. 7,126,326 ("the '326 patent") ("the February 16, 2007 petition").

The February 16, 2007 petition is before the Office of Patent Legal Administration (OPLA) for consideration.

The February 16, 2007 petition is **granted-in-part**.

Application No. 10/663,448 ("the '448 application") was filed on September 16, 2003, pursuant to the provisions of 35 U.S.C. § 111 with sixteen original claims.

Prosecution advanced to the point where a paper titled "Response To Office Action" was filed on May 8, 2006, in response to the February 10, 2006 Office action. The May 8, 2006 Response includes a listing of then-pending claims 1-12; the Response does not include any further amendments to the claims.

In the July 3, 2006 Notice of Allowability issued in response to the May 8, 2006 Response, the examiner indicates that claims 1-12 are allowed. The July 3, 2006 Notice does not include an Examiner's Amendment or otherwise identify any further amendments to the claims as presented in the May 8, 2006 Response.

The '448 application issued as the '326 patent on October 24, 2006, with twelve total claims. However, only claim 1 of the '326 patent is identical to claim 1 as presented in the May 8, 2006 Response. Claims 2-12 of the '326 patent are different from claims 2-12, respectively, as presented in the May 8, 2006 Response.

The February 16, 2007 petition seeks to have the '326 patent corrected to replace issued claims 2-12 with claims 2-12, respectively, as presented in the May 8, 2006 Response.

A patent may be reprinted where there is a mistake on the part of the Office, and a certificate of correction is deemed inappropriate in form.[1] A certificate of correction is typically appropriate in form where the errors are less than substantially the entire document. In particular, a certificate of correction is the normal mechanism for correcting a patent where, as here, the patent was printed with the correct specification, abstract and drawings, but not with a correct set of the allowed claims of record.

Therefore, to the extent that the February 16, 2007 petition is requesting a corrected patent in accordance with 37 CFR 1.322(b), the February 16, 2007 petition is dismissed; a certificate of correction issued instead on February 17, 2009, deleting Columns 1, line1, through Columns 12, line 36, of the '326 patent and substituting therefor Columns 1, line 1, through Columns 12, lines 26, as attached to the Certificate.[2]

The Office, however, can provide a courtesy corrected reprint for patent owner's records. Therefore, the February 16, 2007 petition is granted to the extent that the Office provided on February 18, 2009, a courtesy corrected reprint of the '326 patent for patent owner's records. The February 18, 2009 corrected reprint of the '326 patent is merely a courtesy provided solely for patent owner's records; the Image for the '326 patent in the USPTO Patent Full-Text and Image Database maintained by the Office contains the original printed patent with incorrect claims 2-12 followed by a specification containing the correct set of the allowed claims of record in the form of a Certificate of Correction.

Any inquiry concerning this decision should be directed to Raul Tamayo, Legal Advisor, at (571) 272-7728.

Robert A. Clarke
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[1] See: 35 U.S.C. § 254; 37 CFR 1.322(b).
[2] The Image File Wrapper record for the '448 application reveals a June 19, 2008 SPE Response For Certificate of Correction that states that "[t]he allowed claims are 1-12 dated on 5/8/2006."

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/663,455	09/15/2003	2183	1020	RSW920030055US1	8	35	2

CONFIRMATION NO. 2196

CORRECTED FILING RECEIPT

OC000000012148420

Theodore Naccarella, Esquire
Synnestvedt & Lechner LLP
2600 Aramark Tower
1101 Market Street
Philadelphia, PA 19107-2950

Date Mailed: 03/19/2004

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

Applicant(s)

David Abu Ghazaleh, Apex, NC;
Michael Frank, Raleigh, NC;
James Edward Shivers, Efland, NC;
John Daniel Griffin, Durham, NC;

Domestic Priority data as claimed by applicant

Foreign Applications

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

Projected Publication Date: 03/17/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for documenting and describing object oriented programming logic

Preliminary Class
712

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

GRANTED

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

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

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

NOT GRANTED

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

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AUG 14 2006

OFFICE OF PETITIONS

SCULLY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

In re Application of :
Dokumaci, et al. : DECISION ON PETITION
Application No. 10/663,471 :
Filed: September 15, 2003 :
Docket No.: YOR920020233US1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned August 13, 2005 for failure to timely reply to the non-final Office action mailed May 12, 2005. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed April 6, 2006.

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

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

This application is being forwarded to Technology Center 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

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MAIL

MAR 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

TOWNSEND, TOWNSEND and CREW, LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3834

In re Application of: HONDA
Application No. 10/663,480
Filed: September 15, 2003
For: VIRTUALIZATION CONTROLLER AND DATA TRANSFER CONTROL METHOD

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII) & 37 C.F.R. 102(d)

This is a decision on the petition filed **November 17, 2004** under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

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

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

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

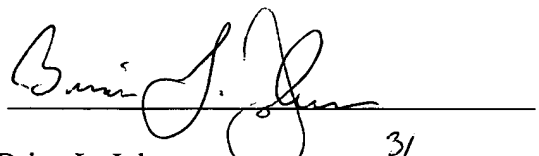
The petition filed November 17, 2004 fails to adequately meet requirements (e) of the criteria set forth above. With respect to requirement (e), applicant must provide a detailed discussion of the reference documents. The applicant has deemed which references are considered most closely related; however, he makes a single statement of what is considered missing from the references on page 5 at the beginning of section B. The application has 5 independent claims (claims 1, 10, 16, 19 and 24). The statement of the features missing from the cited references appears to be present in claims 1, 10 and 16; however, all of the features are not present in claims 19 and 24. For example, in claim 19 does not indicate that when data stored in the first storage area is transferred to a second storage area in one of the storage devices, the processor correlate the first identification information with a third identification information for identifying the second storage area and registers the first identification information and the third identification information in the volume mapping information. Also, in claim 24, no reference is made to the third identification information.

The submission does not satisfy the requirement, as it does not provide a **detailed discussion** of the references and it does not point out how the **claimed subject matter is patentable over the references.** Petitioner should ensure that the above discussion is directed to how the language of **each** of the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above.

Petition to Make Special **DISMISSED;** since, all of the requirements for special status under MPEP § 708.02(VIII) have not been met.

Petitioner is given one month to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.



3/17/05

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

JC

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAIL

MAY 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: HONDA, et al.
Application No. 10/663,480
Filed: September 15, 2003
For: VIRTUALIZATION CONTROLLER AND DATA TRANSFER CONTROL METHOD

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

This is a response to the renewed petition filed 11 April 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed 17 November 2004. The petition was dismissed for failure to provide a detailed discussion of the references, which discussion points out with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicants' submission filed 11 April 2005 corrects the deficiency noted in the original decision. The combined submissions meet all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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SEP 13 2006
OFFICE OF PETITIONS

In re Application of :
Kiyoshi Honda, et al. :
Application No. 10/663,480 : ON PETITION
Filed: September 15, 2003 :
Attorney Docket No.: TMI-5362 :

This is a decision on the petition, filed September 12, 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 18, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2189 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

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APR 12 2007

OFFICE OF PETITIONS

In re Application of :
Stacy Jackson PROWELL :
Application No. 10/663,482 : ON PETITION
Filed: September 15, 2003 :
Attorney Docket No. 712103-1010 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 30, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed May 23, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on August 24, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

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Suite 1600
121 S.W. Salmon Street
Portland OR 97204

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JAN 07 2005

OFFICE OF PETITIONS

In re Application of :
Wilhelm Kordes :
Application No. 10/663,484 :
Filed: September 15, 2003 : Decision on Petition
Title of Invention: :
FLORIBUNDA ROSE PLANT NAMED :
'KORPANCOM' :

This is a decision on the petition filed December 3, 2004, requesting that the above-identified application be accorded a filing date of September 15, 2003.

The application was deposited on September 15, 2003, claiming status as a continuation of prior application No. 10/020,793. However, on November 9, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application ("Notice") stating that a filing date had **not** been accorded the application because the specification did not include at least one claim.

In response, Applicant files the instant petition and avers that the application incorporates by reference the entire disclosure of the prior application into the disclosure of the present application.

Applicants state that the prior application, No. 10/020,793 includes a claim. Based upon applicants' representation that the prior application includes a claim, and the entire disclosure of application No. 10/020,793 was specifically incorporated by reference in the present application on September 15, 2003, it appears that at least one claim was present in the Office on September 15, 2003, albeit in the file of another application, i.e., application No. 10/020,793. Therefore, on petition, the application may be accorded the requested filing date.

The petition is granted. The petition fee will not be refunded as the petition was not necessitated by Office error

A newly executed oath or declaration is not required under 37 CFR 1.51(b)(2) and 1.53(f) in a continuation or divisional application, provided that the specification and drawings filed in the continuation or divisional application contain no matter that would have been new matter in the prior application. See 37 CFR 1.63(d)(1).

The application is being returned to the Office of Initial Patent Examination for further processing with a **filing date of September 15, 2003**, and an indication that the application included at least one claim on filing.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

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KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 04/22/2010

Applicant	: Joseph P. Errico	: DECISION ON REQUEST FOR
Patent Number	: 7635368	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/663,487	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **465** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WESTFIELD NJ 07090

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JUL 06 2009

OFFICE OF PETITIONS

In re Application of :
Joseph P. ERRICO et al. :
Application No. 10/663,488 : DECISION ON PETITION
Filed: September 16, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. SPINE 3.0-437PPPPPPP :
I C

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 02, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation

by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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 Michelle R. Eason at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Joseph P. ERRICO et al. :
Application No. 10/663,488 : DECISION ON PETITION
Filed: September 16, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. SPINE 3.0-437 PPPPPPP :
I C

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 15, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231. 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 3738 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.

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/663,488	09/16/2003	3738	375	SPINE 3.0-437 PPPPPPP I C	12	1

CONFIRMATION NO. 2425

CORRECTED FILING RECEIPT

530
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Date Mailed: 11/05/2009

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)

Joseph P. Errico, Green Brook, NJ;
Michael W. Dudasik, Nutley, NJ;
Rafail Zubok, Midland Park, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 000530

Domestic Priority data as claimed by applicant

This application is a CIP of 10/282,356 10/29/2002 PAT 7,169,182
and is a CIP of 10/309,585 12/04/2002 PAT 7,115,132
and is a CIP of 10/425,267 04/29/2003 PAT 7,235,081
and said 10/309,585 12/04/2002
is a CIP of 10/282,356 10/29/2002 PAT 7,169,182
and said 10/425,267 04/29/2003
is a CIP of 10/282,356 10/29/2002 PAT 7,169,182
which is a CON of 10/256,160 09/26/2002 PAT 6,989,032
which is a CON of 10/175,417 06/19/2002 PAT 7,563,285
which is a CON of 10/151,280 05/20/2002 PAT 7,604,664
which is a CON of 09/970,479 10/04/2001 PAT 6,669,730
and is a CON of 10/140,153 05/07/2002 ABN
and said 09/970,479 10/04/2001
is a CON of 09/968,046 10/01/2001 ABN
and said 10/140,153 05/07/2002
is a CON of 09/970,479 10/04/2001 PAT 6,669,730
and is a CON of 10/128,619 04/23/2002 PAT 6,863,689
which is a CON of 09/906,119 07/16/2001 PAT 6,607,559
and is a CON of 09/982,148 10/18/2001 PAT 6,673,113

and said 10/282,356 10/29/2002
is a CON of 10/256,160 09/26/2002 PAT 6,989,032
which is a CON of 10/175,417 06/19/2002 PAT 7,563,285
which is a CON of 10/151,280 05/20/2002 PAT 7,604,664
which is a CON of 09/970,479 10/04/2001 PAT 6,669,730
and is a CON of 10/140,153 05/07/2002 ABN
and said 09/970,479 10/04/2001
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and said 10/140,153 05/07/2002
is a CON of 09/970,479 10/04/2001 PAT 6,669,730
and is a CON of 10/128,619 04/23/2002 PAT 6,863,689
which is a CON of 09/906,119 07/16/2001 PAT 6,607,559
and is a CON of 09/982,148 10/18/2001 PAT 6,673,113

Foreign Applications

If Required, Foreign Filing License Granted: 12/19/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/663,488**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

INTERVERTEBRAL SPACER DEVICE HAVING AN ENGAGEMENT HOLE FOR A TOOL WITH AN EXTENDABLE POST

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application

serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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Hilda Virginia Martin
Josephine Almeda Gatling
400 Gloucester Street
Hampton, VA 23661

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APR 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Martin et al.	:	
Application No.: 10/663503	:	DECISION ON
Filing or 371(c) Date: 09/16/2003	:	PETITION
Title of Invention:	:	
UPRIGHT STAND BIBLE/BOOK HOLDER	:	

This is a decision in response to the correspondence framed as a grievance report, filed May 9, 2006. The correspondence is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed July 20, 2004. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a Reply in the form of an Amendment[1] on November 15, 2004; however, because the reply was filed after the three (3) month period set forth in the Office action, an extension of time was required. Applicant was so notified in an Office communication mailed August 9, 2005.

Applicant filed the extension of time fee on August 24, 2005.

Upon receipt of the extension of time fee, this Office reviewed the Reply/Amendment to the Office action and informed Applicant that the Amendment was non-compliant with Office rules.

[1] The Amendment was unexecuted.

A Notice of Non-Compliant Amendment was mailed on October 3, 2005. The Notice of Non-Compliant Amendment set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available.

Applicant filed a second Amendment[2] on October 18, 2005.

The second Amendment was also non-compliant. Applicant was so notified in a second notice entitled "Failure to Acceptably Respond to Notice of Non-Compliant Amendment," mailed to Applicant on November 23, 2005. The second notice also informed Applicant that the period for reply continued to run from the mailing date of the prior Notice of Non-Compliant Amendment.

Applicant filed a third Amendment on December 6, 2005[3], which was more than two months after the period for reply set forth in the October 3, 2005 Notice of Non-Compliant Amendment. As such, a two (2) month extension of time was required. Office records reveal that no extension of time request or fee for the belated filing of the third Amendment was submitted[4].

The third Amendment also failed to acceptably respond to the October 3, 2005 Notice of Non-Compliant Amendment. Applicant was so notified in an Office communication mailed December 20, 2005. The Office communication also informed Applicants that a two (2) month extension of time was required, and that all Applicant's must sign their communications to the Office.

On January 23, 2006, Applicants filed a fourth (4) Amendment, without an extension of time request or fee.

The fourth Amendment was also non-compliant. Applicant was informed for the fourth time that the Amendment was not in compliance with Office rules, in a notice entitled "Failure to Acceptably Respond to Notice of Non-Compliant Amendment," mailed to Applicant on February 2, 2006. This notice also informed Applicant that the period for reply continued to run from the mailing date of the prior Notice of Non-Compliant Amendment (mailed October 3, 2005.

No timely and proper reply to the October 3, 2005 Notice having been received, the application became abandoned on November 4, 2005. A Notice of Abandonment was mailed August 31, 2006.

Petition under 37 CFR 1.181

Applicant files the present petition to the Director of Patents and includes the grievance report for four applications in the one document. In this application, Applicants contend that they have been informed that $1080 is required to avoid abandonment of the application. Applicant further contends that a reply was filed January 17 and that Applicant has postal receipts to verify the mailing of the reply.

---

[2] The Amendment was unexecuted.
[3] The Amendment was unexecuted.
[4] Office records indicate that a telephone call was placed to Applicant (Ms. Martin), and a voice message was left

Analysis

1. Filing Separate Papers for Separate Applications

Applicant is advised, as an initial matter, that our rules require that separate matters be contained on separate papers. The rule states

> Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

37 CFR 1.4(c)

Here, Applicant has included grievances for four applications in one document. Applicant is advised that separate matters be contained on separate papers.

2. Signing correspondence

Applicant is also advised that our rules require a signature on amendments. The rule, 37 CFR 1.33(b), states

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (4) All of the applicants for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The Manual of Patent Examining Procedure ("MPEP"), instructs Office personnel that

> An unsigned amendment or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.
>
> When an unsigned or improperly signed amendment is received the amendment will be listed in the contents of the application file, but not entered. The examiner will notify applicant of the status of the application, advising him or her to furnish a duplicate amendment properly signed or to ratify the amendment already filed. In an application not under final rejection, applicant should be given a 1-month time period in which to ratify the previously filed amendment (37 CFR 1.135(c)).

In this instance, the Examiner nevertheless reviewed the Amendment for Applicant and informed Applicant that the Amendment was not in compliance with Office rules. Applicant is advised that this review was solely at the discretion of the Examiner. The rules and MPEP state

> 37 CFR 1.135(c) now authorizes the examiner to accept a reply to a non-final Office action that is *bona fide* and is substantially complete but for an inadvertent omission as an adequate reply to avoid abandonment under 35 U.S.C. 133 and 37 CFR 1.135. When a bona fide attempt to reply includes an inadvertent omission that precludes action on the merits of the application (e.g., an amendment is unsigned or improperly signed, or presents an amendment with additional claims so as to require additional fees pursuant to 37 CFR 1.16(h), (i), or (j)), the examiner may consider that reply adequate to avoid abandonment under 35 U.S.C. 133 and 37 CFR 1.135, and give the applicant a shortened statutory time period of 1 month to correct the omission (e.g., provide a duplicate paper or ratification, or submit the additional claims fees or cancel the claims so that no fee is due). The failure to timely supply the omission will result in abandonment under 35 U.S.C. 133 and 37 CFR 1.135. Extensions of time under 37 CFR 1.136(a) or (b) will be available, unless the action setting the shortened statutory period indicates otherwise.

MPEP 710.01

In other words, the Examiner saw that you were making an effort to file a proper reply, and opted to review the Amendment and provide Applicant with information on how to correct the Amendment, instead of holding the application abandoned, despite the fact that the reply was not properly (executed) signed.

Applicant is advised that it is the Applicant's responsibility to familiarize themselves with Office rules. When an Applicant attempts to prosecute an application without an attorney, the applicant places himself or herself in the shoes of an attorney and is tasked with the responsibility of knowing Office rules and complying with those rules.

3. Abandonment of the Application

This application is abandoned. Applicant was required to file a complete and proper reply to the Office action mailed back on July 20, 2004. Applicant is advised the an application goes abandoned according to statute and Office rules. The statute, 35 U.S.C. § 133, Time for prosecuting application, states

> 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 Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

This section of the statute is further clarified in Office rule, 37 CFR § 1.135, Abandonment for failure to reply within time period, which states

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.

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

This section explains that the reply must be both complete and proper as the condition of the application may require.

Here, Applicant repeatedly filed Amendments that were not in compliance with Office rules. Instead of holding the application abandoned, Applicant was given repeated opportunities to correct the deficiencies in the replies. Applicant failed to sign the Amendments, Applicant failed to timely reply to the Office communications, and Applicant failed to file the appropriate extension of time request and fees. Most importantly, Applicant failed to file a complete and proper reply because the Amendments failed to comply with 37 CFR 1.121.

Applicant is advised that, as provided in the Manual of Patent Examining Procedure,

> [w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

MPEP 711.03(c).

Here, there is no disagreement as to the sufficiency of the reply, or as to controlling dates. Applicant merely contends that a reply was timely filed. However, a complete and proper reply was not timely filed. As such, there is no dispute as to the status of the application. The application is abandoned. A petition to revive the application (and fee) is the appropriate course of action.

Alternate Venue

Applicant is urged to file 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 was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00 for a small entity[5].

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

Finally, Applicant is advised that a list of registered practitioners is available at www.uspto.gov/main/patents. Applicant is further advised that there are two Offices: the Office of Independent Inventors, at 703-306-5568; and the Patent Assistance Center, at 1-800-786-9199, available to provide assistance in prosecuting patent applications.

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

[5] Applicant is further advised that a grantable petition under 37 CFR 1.137(b) requires, in addition to the petition and petition fee, the required reply, to wit, an acceptable appeal brief; a continuing application; a Request for Continued Examination ("RCE"), or a reply that places the application in condition for allowance.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KING & SPALDING LLP
191 PEACHTREE ST
45TH FLOOR
ATLANTA GA 30303-1763

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APR 0 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Pasek, et al.	:	
Application No. 10/663,504	:	ON PETITION
Filed: September 15, 2003	:	
Attorney Docket No. 07931.105001 C	:	

This is a decision on the petition filed on January 6, 2006, pursuant to 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** a final agency decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely file a timely reply to the Notice of Non-Responsive Amendment mailed on September 20, 2005. This Notice set an extendable period for reply of one (1) month. No reply having been received, the above-identified application became abandoned on October 21, 2005. A Notice of Abandonment was mailed on December 16, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The instant petition lacks item (1), the required reply.

As to item (1), the filing of an RCE is only appropriate when prosecution in an application is closed. See 37 CFR 1.114(a). Prosecution in an application is closed if the application is under appeal, or the last Office action is a final Office action, a Notice of Allowance, or an application that otherwise closes prosecution in the application (e.g. an Office action under Ex Parte Quayle). See MPEP 706.07(h)(I).

On renewed petition, petitioner must file a proper reply. The amendment filed on August 5, 2005 was previously determined to be non-responsive.

The $790 fee for the RCE submitted has been refunded to Deposit Account No. 11-0980. The RCE will not be entered, although a copy will remain in the application file.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SNELL & WILMER LLP
1920 MAIN STREET
SUITE 1200
IRVINE, CA 92614-7230

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FEB 2 4 2005

OFFICE OF PETITIONS

In re Application of :
William J. Thompson :
Application No. 10/663,511 : DECISION GRANTING PETITION
Filed: September 16, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 42524-1300 :

This is a decision on the petition, filed February 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 February 7, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3632 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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BLOOMFIELD HILLS MI 48304-0610

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of	:
Farmer, et al.	: DECISION REFUSING STATUS
Application No. 10/663,521	: UNDER 37 CFR 1.47(a)
Filed: September 16, 2003	:
Atty. Dkt. No.: 65858-0020	:
For: SYSTEM OR METHOD FOR	:
IDENTIFYING A REGION-OF-	:
INTEREST IN AN IMAGE	:

This decision is in response to the petition under 37 CFR 1.47(a) filed February 28, 2007.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Petitioner(s) 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 herein. The reply under 37 CFR 1.47(a) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed November 29, 2006. The Notice required a surcharge and an executed oath or 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.

The instant petition fails to satisfy requirement (1). Petitioners have failed to establish that the non-signing inventor received a complete copy of the application papers (specification, including

claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration.

The instant petition does not establish that the inventor received the complete application papers (specification, including claims, drawings, and oath or declaration), and thereafter refused to execute the declaration. Instead, the petition indicates the inventor was forwarded the declaration and an assignment document.

Petitioners are reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor at the non-signing inventor's last known address, typically a residential address.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioners may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

As to item (3), the required petition fee of $200.00 has been charged petitioners' deposit account as authorized.

As to item (4), petitioners have failed to provide the last known address of the non-signing inventor.

An application filed pursuant to 37 CFR 1.47 must state the last known address of the non-signing inventor. That address should be the last known address at which the inventor customarily receives mail. Ordinarily, the last known address will be the last known residence of the non-signing inventor. Inasmuch as a non-signing inventor is notified that an application pursuant to 37 CFR 1.47 has been filed on his or her behalf, other addresses at which the non-signing inventor may be reached should also be given. Each applicant's mailing or post office address is required to be supplied on the oath or declaration, if not stated in an

application data sheet. Applicant's mailing address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the mailing address. The mailing address should include the ZIP Code designation. The object of requiring each applicant's mailing address is to enable the Office to communicate directly with the applicant if desired; hence, the address of the attorney with instruction to send communications to applicant in care of the attorney is not sufficient. In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. *See* MPEP §§ 409.03(e) and 605.03.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. U.S. Patent and Trademark Office Customer Service Window Mail Stop Petition Randolph Building 401 Dulaney Street Alexandria, VA 22314

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
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In re Patent No. KUBES ET AL.
Issue Date: December 12, 2006
Appl. No.: 10/663,535
Filed: September 16, 2003
For: **CLEANING DEVICE WITH DISPOSABLE PAD**

DECISION DISMISSING PETITION
37 CFR 1.324

This is a decision on the petition filed April 13, 2007 to correct inventorship under 37 CFR 1.324.

The petition is dismissed.

A petition to correct inventorship as provided by 37 CFR 1.324 requires (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part, (2) a statement from the current named inventors (including any "inventor" being deleted) who have not submitted a statement as per "(1)" either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change, (3) a statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement **must comply with the requirements of 37 CFR 3.73(b)**; and (4) **the fee set forth in 37 CFR 1.20(b)**. This petition lacks item(s) (3) and (4).

With respect to Item (3), the statement from the assignee does not comply with 37 CFR 3.73 (b)(2) which states:

> (2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:
> (i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
> (ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

With respect to Item (4), the fee submitted was for $100. While the fee set forth in 37 CFR 1.20(b) is $130.

Gladys JP Corcoran
Supervisory Patent Examiner
Art Unit 1744
Patent Examining Group 1700

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

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1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Lu et al.	:	DECISION ON PETITION
Application No. 10/663,538	:	TO WITHDRAW
Filed: September 15, 2003	:	FROM RECORD
Attorney Docket No. VITA-002CIP2	:	

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 11, 2006.

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 24353 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 below-listed address until otherwise notified by applicant.

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

cc:

TOWNSEND AND TOWNSEND AND CREW
TWO EMBARACADERO CENTER 8TH FLOOR
SAN FRANCISCO, CA 94111

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Medtronic
Attn: Noreen C. Johnson, IP Legal Department
2600 Sofamor Danek Drive
Memphis, TN 38132

Mail Date: 04/21/2010

Applicant	: Bret M. Berry	: DECISION ON REQUEST FOR
Patent Number	: 7588573	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/663,554	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **487** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. None

SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of
Nina Rautonen et al.
Application No. 10/663,562
Date of Deposit: September 16, 2003
Attorney Docket No.: 17031
Title: NOVEL USE OF CARBOHYDRATES AND COMPOSITIONS

DECISION ON PETITION UNDER 37 C.F.R. §1.137(a)

This is a decision on the petitions under 37 C.F.R. §§1.53 and 1.137(a)[1,2], filed concurrently on April 29, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed December 10, 2003, which set a shortened statutory period for reply of two (2) months. The Notice indicated that a filing date had not been accorded, drawings were not received, the oath or declaration was missing, and an abstract had not been submitted. 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 March 11, 2004.

With the instant petition, petitioner has included the fee associated with the filing of a petition under 37 C.F.R. §1.53, a portion of the fee associated with the filing of a petition under 37

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1 A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to 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 was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 Petitioner has entitled his petition "Petition under 37 C.F.R. §1.181" (a petition to withdraw the holding of abandonment) but has stated that he wishes to revive the application which was unavoidably abandoned, which would suggest that he intended to file a petition under 37 C.F.R. §1.137(a). Furthermore, there is no fee associated with the filing of a petition to withdraw the holding of abandonment, the fee for the filing of a petition to revive under the unavoidable standard used to be $130, and Petitioner has submitted payment in the amount of $130. As such, it is clear that Petitioner intended to file a petition to revive the application under the unavoidable standard, filed under the wrong section of the C.F.R., and submitted the incorrect amount for his petition fee. The petition will be treated as such.

C.F.R. §1.137(a), declaration, an abstract, and a statement of facts which asserts that the Notice was not received. Petitioner has also submitted a "docketing sheet."

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. § 1.137(a) is $500 for a large entity and $250 for a small entity. Petitioner has submitted payment in the amount of $130. Petitioner will note that the fees changed as of December 8, 2004. Therefore, requirement number (2) has not been met. The payment of the required petition fee is a prerequisite to the filing of a petition to revive under 37 C.F.R. §1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. 711.03(c)(III)(B)[3]. The petition does not appear to contain an authorization to charge any deficient fees to a Deposit Account.

In view of the foregoing, this petition must be **DISMISSED**.

Any request for reconsideration or petition under 37 CFR 1.137(a) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski. Any renewed petition may be submitted by mail[4], hand-delivery[5], or facsimile[6].

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.

The petition under 37 C.F.R. §1.53 will not be addressed until the present application has been revived.

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

[3] "...[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. §41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. §1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), *reprinted in* 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office...will not reach the merits of any petition under 37 C.F.R. §1.137 lacking the requisite petition fee."

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

6 (703) 872-9306 - please note this is a central facsimile number.

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JUL 11 2005

OFFICE OF PETITIONS

In re Application of
Nina Rautonen et al.
Application No. 10/663,562
Date of Deposit: September 16, 2003
Attorney Docket No.: 17031
Title: NOVEL USE OF CARBOHYDRATES AND COMPOSITIONS

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.137(a)

This is a decision on the renewed petition under 37 C.F.R. 1.137(a)[1, 2], filed on June 23, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed December 10, 2003, which set a shortened statutory period for reply of two (2) months. The Notice indicated that a filing date had not been accorded, drawings were not received, the oath or declaration was missing, and an abstract had not been submitted. 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 March 11, 2004.

The original petition was filed on April 29, 2005, along with the fee associated with the filing of a petition under 37 C.F.R. §1.53, a portion of the fee associated with the filing of a petition under 37 C.F.R. §1.137(a), declaration, an abstract, and a statement of facts which asserts that the Notice was not received. Petitioner also submitted a "docketing sheet." This petition was dismissed via the mailing of a decision on June 14, 2005 for failure to submit the petition fee in full.

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1 A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to 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 was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 The original petition under 37 C.F.R. §1.53 also contained a petition under 37 C.F.R. §1.137(a), which asserts that drawings are not required for this application.

With this renewed petition, Petitioner has submitted the remainder of the petition fee.

Requirements (1) and (2) above have been met. The fourth requirement above does not apply. The instant petition lacks item (3) above.

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

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3 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

4 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

5 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

6 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

7 Id.

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8]

Nonawareness of a PTO rule will not constitute unavoidable delay[9]
The burden of showing the cause of the delay is on the person seeking to revive the application[10].

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[11].

The portion of the MPEP relevant to the abandonment of this application

MPEP 711.03(c) states, in part:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of

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8 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

9 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

10 Id.

11 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances that led to the abandonment of the application meet the aforementioned unavoidable standard and, therefore; petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner contends that this mailing was never received.

The showing in the instant petition is not sufficient to constitute unavoidable delay. First, Petitioner has not included a statement that a thorough search of the file jacket and docket records were conducted, and the notice was not located. Secondly, Petitioner has failed to submit a docket record. The printout supplied contains a heading entitled ""Country Application," and bears the fields "Case Number 17031" and "Application Number: 10/663,562," which would appear to indicate that this report is a listing of all matters pertaining to this particular application. A docket report is a mail log, recorded by the person who receives all incoming mail. A docket report should show all incoming mail received during the relevant time period. As the printout merely concerns the actions of this particular application, it fails to show the correspondence at issue was not received and merely misplaced and filed with another file.

If petitioner's firm does not maintain a mail log as defined above, Petitioner will not be able to make the showing that is required for the filing of a petition under this section, since if the Petitioner received the correspondence at issue and misfiled it with another file, the receipt would not be reflected on the docket associated with this particular application. As such, the docket for 10/663,562, by itself, cannot establish non-receipt.

Therefore, Petitioner has not established non-receipt of the communication.

Conclusion

For these reasons, this petition is **DISMISSED**. Any renewed petition must be submitted within **TWO (2) MONTHS** from the mail date of this decision, and should include a copy of the docket report. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

Any renewed petition may be submitted by mail[12], hand-delivery[13], or facsimile[14].

---

12 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

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.

The petition under 37 C.F.R. §1.53 will not be addressed until the present application has been revived.

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

13 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
14 (703) 872-9306 - please note this is a central facsimile number.

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SUITE 300
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AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Nina Rautonen et al. :
Application No. 10/663,562 :
Filed: September 16, 2003 :
Attorney Docket No.: 17031 :
Title: NOVEL USE OF CARBOHYDRATES AND COMPOSITIONS :

DECISION ON TWO PETITIONS UNDER 37 C.F.R. §§1.53 and 1.137(b)

This is a decision on the petitions under 37 CFR §§ 1.53 and 1.137(b)[1] to revive the above-identified application, filed April 29, 2005 and August 11, 2005, respectively.

The petition under 37 C.F.R. §1.137(b):

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed December 10, 2003, which set a shortened statutory period for reply of two (2) months. The Notice indicated that a filing date had not been accorded, drawings were not received, the oath or declaration was missing, and an abstract had not been submitted. 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 March 11, 2004.

Petitioner has submitted the petition fee and the proper statement of unintentional delay. A terminal disclaimer is not required, and an executed declaration was submitted on April 29, 2005. The requirement for drawings will be discussed below.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

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1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition under 37 C.F.R. §1.53:

As set forth above, the notice set forth that drawings were not received.

Mr. Bressler has stated, over his registration number, that drawings are "unnecessary for an understanding of the subject matter sought to be patented[2]."

Based solely on the Attorney's attestation, the petition under 37 C.F.R. §1.53 is **GRANTED**.

The petition fee of $400.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 16, 2003, and for **mailing of an updated filing receipt,** using only the original application papers filed on that date.

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

2 Petition, page 1.

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/663,571	09/15/2003	2171	459	11420-003-999	25	20	5

CONFIRMATION NO. 4195

24341
MORGAN, LEWIS & BOCKIUS, LLP.
3300 HILLVIEW AVENUE
PALO ALTO, CA 94304

CORRECTED FILING RECEIPT

OC000000011765278

Date Mailed: 01/26/2004

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

Applicant(s)

Teodore Zlatkov Zlatanov, Braintree, MA;
Christopher Furlong, West Hollywood, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

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

Projected Publication Date: 03/17/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Computer systems and methods for platform independent presentation design

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-15-06

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction for Appl. No.: 10663572 Patent No.: 7031868

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

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

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

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

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

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

Comments: The claim limitation which patentee's seek to insert into the claim was clearly removed from ~~Black~~ claim 1 by the 10/26/05 Amendment. As the mistake is not a typographical error, clerical in nature, and/or ~~of~~ a mistake of minor character, the certificate of correction shall not issue.

John Barlow
Supervisory Patent Examiner
Technology Center 2800

SPE

2863
Art Unit

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6966514	2005-11-22	10663576	2003-09-16	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Courtney J. Miller/	Date (YYYY-MM-DD)	2009-12-10
Name	Courtney J. Miller	Registration Number	45366

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6966514
Issue Date: November 22,2005
Application No. 10663576
Filed: September 16,2003
Attorney Docket No. GLDES/121/US

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

This is a decision on the electronic petition, filed December 10,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 10,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

JOSEPH M. SAUER
JONES DAY REAVIS & POGUE
NORTH POINT, 901 LAKESIDE AVENUE
CLEVELAND OH 44114

In re Application of :
Michael KNOWLES :
Application No. 10/663,582 : DECISION ON PETITION
Filed: September 16, 2003 : TO MAKE SPECIAL
For: **DEMAND-BASED PROVISIONING FOR A MOBILE COMMUNICATION DEVICE** :

This is a decision on the petition filed October 15, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

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

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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gm

Mailed: 3-12-07

In re application of	:	
Hendel et al.	:	DECISION ON
Serial No. 10/663,585	:	PETITION
Filed: September 16, 2003	:	
For: TREATMENT OF SEMI-PERMEABLE	:	
FILTRATION MEMBRANES	:	

This is a decision on the PETITION TO DIRECTOR 37 CFR 1.181, filed October 20, 2006.

The petition is before the Director of Technology Center 1700 for consideration.

The petition is **GRANTED** for the reasons below.

DECISION

On August 30, 2006, an RCE was filed by applicant along with a request for a suspension of action under 37 CFR 1.103(c) for a period of three months. In response, the examiner issued a final rejection on October 13, 2006, in which the examiner denied the request for suspension as lacking good and sufficient cause for the suspension. The instant petition was then timely filed on October 20, 2006, requesting withdrawal of the final rejection of October 13, 2006.

As correctly noted by applicant, suspensions under 37 CFR 1.103(c) do not require good and sufficient cause. The request for suspension under 37 CFR 1.103(c) filed with the RCE of August 8, 2006 was entirely proper and should have been granted.

Accordingly, the petition for withdrawal of the final rejection of October 13, 2006 is **GRANTED.**

Applicant filed a response to the final rejection under 37 CFR 1.116 on January 12, 2007. This amendment is hereby entered, and will be treated as a supplemental response under 37 CFR 1.111(a)(2)(ii).

The examiner will consider the amendment of January 12, 2007 and prepare a new Office action in response to the amendment. The examiner will make such action non-final in the event the application is not allowable.

JMStone

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

WEGMAN, HESSLER & VANDERBURG
6055 ROCKSIDE WOODS BOULEVARD
SUITE 200
CLEVELAND OH 44131

DATE 10/17/07

APPLICATION NUMBER 10/663,587

DOC CODE _____

DOC DATE 10/16/07

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20071016

DATE : October 16, 2007

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction on Patent No.: 6,952,108 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Ha T. Nguyen **Art Unit** 2829

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P O BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of
Andrew E. Fano et al.
Application No. 10/663,592
Filed: September 15, 2003
Attorney Docket No. 10022/397

ON PETITION

This is a decision on the petition filed January 14, 2009 under 37 CFR 1.182, "TO ACCEPT AS TIMELY FILED A RESCISSION OF PREVIOUS NONPUBLICATION REQUEST".

The petition is **GRANTED**.

Petitioner asserts that under 35 U.S.C. §122(b)(2)(B)(iii), a previously filed Rescission of Previous Non-Publication Request with Notice of Foreign Filing ("Rescission"), was filed on August 24, 2004. 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.

Although a review of the record does not reveal receipt, the evidence submitted corroborates that the "Rescission" was timely filed on August 24, 2004.

It is further noted that the previously filed Non-Publication request has been rescinded and that a Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing was mailed on November 6, 2008 and the projected publication date has therefore been communicated.

Deposit account no. 23-1925 has been charged in the amount of $400 for the petition.

This matter is being referred to Technology Center 2614 for further examination.

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

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PO BOX 2938
MINNEAPOLIS MN 55402

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Carter, et al.	:	DECISION GRANTING PETITION
Application No. 10/663,627	:	AND WITHDRAWING THE
Filed: September 16, 2003	:	HOLDING OF ABANDONMENT
Attorney Docket No. 1555.021US1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 19, 2005.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed April 6, 2005. This Office action set a shortened statutory period of three (3) months. No reply having been received, the application became abandoned on July 7, 2005. A Notice of Abandonment was mailed on October 19, 2005.

A review of the application file reveals the presence of an amendment, filed October 11, 2005. The amendment was made timely by including a Certificate of Mailing under 37 CFR 1.8 dated October 6, 2005, and by including a three month extension of time. Furthermore, Office records indicate that the fee for the three month extension of time was received on October 11, 2005, and was processed on October 13, 2005.

In view of the above, the holding of abandonment is withdrawn.

The matter is being forwarded to Group Art Unit 2841 for consideration of the amendment filed October 11, 2005 (Certificate of Mailing dated October 6, 2005).

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

Cliff Congo
Petitions Attorney
Office of Petitions

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PARK, VAUGHN & FLEMING
2820 FIFTH STREET
DAVIS CA 95616

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OFFICE OF PETITIONS

In re Application of :
Hideya Kawahara et al :
Application No. 10/663,640 : DECISION GRANTING PETITION
Filed: September 15, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. SUN04-0196-JLM :

This is a decision on the petition, filed January 24, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on September 9, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of September 15, 2005, accompanies this decision on petition.

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

This matter is being referred to Technology Center Art Unit 2173 for examination in due course.

Karen Creasy

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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P.O. BOX 1450
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Paper No.

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JUN 30 2010

OFFICE OF PETITIONS

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

In re Patent No. 7,597,702	:	DECISION ON REQUEST
Eidenschink	:	FOR
Issue Date: October 6, 2009	:	RECONSIDERATION OF
Application No. 10/663,641	:	PATENT TERM
Filed: September 17, 2003	:	ADJUSTMENT and
Atty Docket No. S63.2-11019-US01	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 4, 2009, which is being treated as a timely filed 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 either one thousand, seven hundred and seventy-three (1773) days or in the alternative, one thousand, five hundred and fifty-four (1554) 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, five hundred and fifty-three (1553) days is **GRANTED to the extent indicated herein.**

A notice of appeal was filed on July 2, 2008 and a non-final Office action was subsequently mailed on February 6, 2009. The 220 (not 219 days as calculated by Petitioner) days of the over three year period consumed by appellate review, beginning on July 2, 2008 and ending on February 6, 2009, is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

As such, the patent term adjustment is increased by 1553 (1115 "B-delay" minus the aforementioned excluded 220 days minus the overlapping 383 days between the three-year anniversary and the

mailing of a notification under 35 U.S.C. § 132 and the overlapping 50 days associated with the mailing of a non-final Office action on February 6, 2009) days, not 1773 or 1554 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, five hundred and fifty-three (1553) days.**

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,597,702 B2

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

INVENTOR(S) : Eidenschink 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 1104 days

Delete the phrase "by 1104 days" and insert – by 1553 days--

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ANTONELLI, TERRY, STOUT &
KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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MAY 13 2009

OFFICE OF PETITIONS

In re Application of :
Awakura et al. : DECISION ON PETITION
Application No. 10/663,657 :
Filed: September 17, 2003 :
Atty Docket No. 501.43143X00 :

This is in response to the PETITION FOR WITHDRAWAL OF ERRONEOUS HOLDING OF ABANDONMENT filed December 7, 2007. Receipt of the status inquiry filed September 4, 2008 is acknowledged. The petition was recently forwarded to the undersigned for consideration.

The petition is **DISMISSED**.

Any request for reconsideration pursuant to § 1.181 must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. See 37 CFR §1.181(f). Extensions of time under §1.136(a) are not permitted.

The above-identified application became abandoned for failure to file a response to the restriction requirement mailed April 16, 2007. This restriction requirement set a one-month period for reply with extensions of time obtainable under § 1.136(a). No response was received and no extension of time was obtained. Accordingly, the application became abandoned effective May 17, 2007. A courtesy Notice of Abandonment was mailed on November 27, 2007.

In response, applicants timely filed the instant petition. Applicants petition to withdraw the holding of abandonment on the basis that the Office action was not received. Practitioner

states that he has reviewed the computer records and the file for the above-identified application and it reveals no indication of receipt of the Office action. Practitioner states that the petition includes a copy of the November 16, 2007 page of this Docket Book, "which represents the end of the six month statutory period for response." In support of nonreceipt of the Office action, practitioner points out that the image file wrapper shows two copies of the Office action and that such is unusual and in all probability, indicative of the fact that the Office action was not properly mailed to the office of the undersigned attorney.

A review of the application file reveals no irregularities in the mailing of the Office action mailed April 16, 2007. Thus, there is a strong presumption that the correspondence was properly mailed to the applicants at the correspondence address of record. The duplicate entry of the restriction requirement in the image file wrapper is not such an irregularity as to overcome this presumption. The restriction requirement is addressed to the correspondence address of record. Further, the PALM records for this application support a conclusion that a restriction requirement was mailed in this application on April 16, 2007. In the absence of demonstrated irregularities in mailing of the restriction, petitioner must submit evidence to overcome this presumption. The following showing is required:

> 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 of nonreceipt is not sufficient. Practitioner describes the docketing system, states that the Office action was never received and states that a search of the file and docket records supports such a conclusion. However, practitioner only submits a docket page for the replies of November 16, 2007. Yet, in this instance, the relevant date is October 16, 2007. The response was due, without extension of time, within one month or by May 16, 2007. The maximum extendable period for response was five months or by October 16, 2007. Thus, November 16, 2007 was beyond the period for reply. As such a master docket record for November 16, 2007 is not persuasive evidence of nonreceipt of the Office action mailed April 16, 2007.

If applicants cannot provide persuasive evidence of non-receipt of the Notice, applicants may submit a petition to revive pursuant to § 1.137.

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

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

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

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

Telephone inquiries concerning 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
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Paper No.

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KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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OFFICE OF PETITIONS

In re Application of :
Awakura et al. : DECISION ON PETITION
Application No. 10/663,657 :
Filed: September 17, 2003 :
Atty Docket No. 501.43143X00 :

This is a decision on the REQUEST FOR RECONSIDERATION OF DECISION ON PETITION filed May 20, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned effective May 17, 2007 for failure to file a response to the restriction requirement mailed April 16, 2007. A courtesy Notice of Abandonment was mailed on November 27, 2007.

By decision mailed May 13, 2009, the initial petition for withdrawal of holding of abandonment filed December 7, 2007 was dismissed. Practitioner stated that the Office action was not received at the correspondence address of record. Practitioner described the docketing system and stated that he had reviewed the computer records and the file for the above-identified application and it revealed no indication of receipt of the Office action. However, in support thereof, practitioner submitted a copy of the November 16, 2007 page of this Docket Book, "which represents the end of the six month statutory period for response." Unfortunately the relevant date based on the arguments set forth and mail date of the restriction requirement is October 16, 2007.

On instant renewed petition, practitioner restated his statements of non-receipt of the restriction requirement mailed April 16, 2007. In support thereof, practitioner submitted a copy of the master docket record for October 16, 2007.

Petitioner has now made an adequate showing of non-receipt of the Office action mailed April 16, 2007.

In view thereof, the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2629 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the restriction requirement mailed April 16, 2007 and for restarting of the period for reply.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MAR 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: KIMURA ET. Al.
Application No. 10/663,700
Filed: September 17, 2003
For: CACHE CONTROL METHOD FOR NODE APPARATUS

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

This is a response to the petition filed December 29, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, petitioner will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in regular turn. In those instances where a request is defective in one or more respects, petitioner will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

The petition filed December 29, 2004 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), applicant must provide a detailed discussion of the reference documents. The applicant merely makes a single statement that the references do not include the entire features of claim 1; however, many of those features have not been set forth in claims 3, 11, 15 and 19. For example, the features of sending attribute information of data to a node device is not specified in claims 3, 11, 15 or 19 and the judging and the relaying features are not specified in claims 11 and 15. Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** is specifically distinguishable and patentable from each reference provided in requirement (d) above. The statement that the references shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

The submission does not satisfy the requirement, as it does not provide a **detailed discussion** of the references and it does not point out how the **claimed subject matter is patentable over the references.** Petitioner should ensure that the above discussion is directed to how the language of **each** of the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

3/17/05

JC

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330 UNIVERSITY AVENUE
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OFFICE OF PETITIONS

In re Application of
Cates, et al.
Application No. 10/663,722
Filed: September 17, 2003
Attorney Docket No. 1038-1268 MIS
For: MULTIVALENT IMMUNOGENIC COMPOSITION CONTAINING RSV SUBUNIT COMPOSITION AND INFLUENZA VIRUS PREPARATION

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 30, 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)." Petitioners are advised that this is not a final agency decision.

This application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application, mailed December 11, 2003, which required petitioners to file replacement drawings, an executed declaration, and a surcharge within an extendable two month period from the mail date of the Notice.

On June 14, 2004 petitioners filed a request for a four month extension of time and required fee, replacement drawings, and a surcharge. On June 25, 2004 the Office mailed a Notice of Incomplete Reply that noted the June 14, 2004 response was incomplete due to the omission of an executed declaration and informed petitioner that the original period for reply set in the December 11, 2003 Notice remained in effect.

Therefore, the application became abandoned on June 12, 2004 for failure to timely submit an executed declaration. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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

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

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

The instant petition does not satisfy requirement (1) above.

The declaration submitted with the instant petition is not acceptable. The declaration contains noninitialed, nondated alterations to Suryaprakash Sambhara's information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a).

Fortunately, the deficiencies or inaccuracies relate to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Sambhara can correct his respective information on a supplemental declaration identifying all inventors and listing all information, but signed only by Mr. Sambhara.

The supplemental declaration taken with the declaration filed with the instant petition will be an acceptable reply.

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 concerning this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

SIM & MCBURNEY
330 UNIVERSITY AVENUE
6TH FLOOR
TORONTO ON M5G 1R7
CANADA

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MAR 2 9 2005

OFFICE OF PETITIONS

In re Application of :
Cates, et al. : DECISION
Application No. 10/663,722 : ON PETITION
Filed: September 17, 2003 :
Attorney Docket No. 1038-1268 MIS :
For: MULTIVALENT IMMUNOGENIC COMPOSITION CONTAINING RSV SUBUNIT COMPOSITION AND INFLUENZA VIRUS PREPARATION

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed March 4, 2005, to revive the above-identified application.

This application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application, mailed December 11, 2003, which required petitioners to file replacement drawings, an executed declaration, and a surcharge within an extendable two month period from the mail date of the Notice.

On June 14, 2004 petitioners filed a request for a four month extension of time and required fee, replacement drawings, and a surcharge. On June 25, 2004 the Office mailed a Notice of Incomplete Reply that noted the June 14, 2004 response was incomplete due to the omission of an executed declaration and informed petitioner that the original period for reply set in the December 11, 2003 Notice remained in effect.

Therefore, the application became abandoned on June 12, 2004 for failure to timely submit an executed declaration. Applicants' first petition to revive, filed September 30, 2004, was dismissed on December 3, 2004 for failure to submit a proper reply. The filing of the instant reconsideration petition precedes the mailing of a Notice of Abandonment.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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

(3) a statement that the **entire** delay in filing the required reply

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

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

The instant reconsideration petition satisfies the above-listed requirements. Petitioners have filed an acceptable, executed declaration, the petition fee, and a statement as to the unintentional nature of the delay in responding to the December 11, 2003 Notice.

Therefore, the petition is granted.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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OFFICE OF PETITIONS

In re Application of :
Cates, et al. :
Application No.: 10/663,722 :
Filed: September 17, 2003 : ON PETITION
Attorney Docket No.: 1038-1268 MIS :
For: MULTIVALENT IMMUNOGENIC COMPOSITION CONTAINING RSV SUBUNIT COMPOSITION AND INFLUENZA VIRUS PREPARATION

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

The petition is **granted**.

This application became abandoned for failure to timely reply to the final Office action mailed January 23, 2007. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Therefore, this application became abandoned on April 24, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and required $500.00 fee; (2) the petition fee of $1,500.00; 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.

After the mailing of this decision, the file will be forwarded to Technology Center AU 1648 to await receipt of an Appeal Brief.

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

Shirene Willis Brantley

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: Murakami
Application No. 10/663,732
Filed: September 17, 2003
For: DATA TRANSFER METHOD

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

This is a response to the petition filed December 7, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, petitioner will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in regular turn. In those instances where a request is defective in one or more respects, petitioner will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

The petition filed December 7, 2004 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), applicant must provide a detailed discussion of the reference documents. The applicant has not deemed which reference is the most closely related references and merely mentions the Fujiwara reference as an example; while, merely paraphrasing one or two paragraphs of each reference (as in the discussion of U.S. Patent No. 6,557,073, **which paraphrases the abstract of the invention)** accompanied by a single statement that the references do not include certain features of the claimed invention. Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** is specifically distinguishable and patentable from the references provided in requirement (d) above. The statement that the references shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

The submission does not satisfy the requirement, as it does not provide a **detailed discussion** of the references and it does not point out how the **claimed subject matter is patentable of the references.** Petitioner should ensure that the above discussion is directed to how the language of **each** of the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

3/10/05

JC

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, & MALUR, P.C.
1800 Diagonal Road
Suite 370
Alexandria VA 22314

In re Application of: MURUKAMI
Application No. 10/663,732
Filed: September 17, 2003
For: DATA TRANSFER METHOD

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

This is a response to the renewed petition filed 11 April 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special. The renewed petition was filed in response to a dismissal of the original petition filed 07 December 2004.

The Petition is **DENIED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

. . .

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

The original petition was dismissed for failing to meet requirement (e). Specifically, it was noted that the petition failed to deem which references were the most closely related and that it included only a single statement that the references do not include certain features of the claimed invention.

The renewed petition filed 11 April 2005 also fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. While the renewed petition includes a detailed discussion of all the references deemed most closely related, the

discussion of the references is not sufficient. The discussion defines three features of the claimed invention and then goes on to state that none of the four references deemed "most closely related" teach or disclose these three features. These features make up essentially the entirety of independent claim 1. It is not clear if this discussion is intended to mean that none of the elements of claim 1 are disclosed by the prior art or that the entirety of claim 1 is not disclosed by the prior art. If the intent is the former, it would be difficult to conclude that the search was directed to the claimed invention if essentially *none* of the claim limitations were found in the prior art deemed "most closely related". If the intent is the latter, a statement that the entirety of independent claim 1 is not disclosed by the four references purported to be "most closely related" is not a sufficient detailed description.

Petition to Make Special **DENIED**.

The application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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Suite 370
Alexandria VA 22314

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TECHNOLOGY CENTER 2100

In re Application of: MURUKAMI
Application No. 10/663,732
Filed: September 17, 2003
For: DATA TRANSFER METHOD

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

This is a response to the second renewed petition filed 11 July 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special. The second renewed petition was filed in response to a denial of the first renewed petition filed 11 April 2005. The first renewed petition was filed in response to a dismissal of the original petition filed 07 December 2004. Note, Applicant's deposit account has not been charged for the filing of the instant petition.

The second renewed petition will not be considered and is hereby DISMISSED.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

> . . . In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

(emphasis added). The dismissal of the original renewed petition indicated that additional renewed petitions would not be considered. (Specifically, the dismissal of the original petition stated that "Petitioner is given one opportunity to perfect the petition" (emphasis added).) Further, the denial of the first renewed petition stated that "[t]he application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination" again indicating that additional renewed petitions would not be considered. Accordingly, the second renewed petition filed 11 July 2005 has not been considered.

The application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

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TECHNOLOGY CENTER 2100

Mattingly, Stanger & Malur, P.C.
1800 Diagonal Road
Suite 370
Alexandria, Virginia 22314

In re Application of: Toshihiko Murakami
Application No. 10/663,732
Filed: September 17, 2003
For: DATA TRANSFER METHOD

DECISION ON PETITION UNDER 37 CFR 1.181 FOR REVIEW OF DENIAL OF ACCELERATED EXAMINATION STATUS UNDER MPEP §708.02(VIII)

This is a decision on the petition filed on October 24, 2005 under 37 C.F.R. §1.181 invoking supervisory review with respect to the denial of a petition 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. This petition is being treated as a renewed request for reconsideration due to Office error.

The Petition is **GRANTED**.

Applicant filed an initial petition December 7, 2004 which was dismissed in a decision mailed March 14, 2005 for failure to adequately describe the references and for failure to provide a sufficient discussion as to how the language of each of the independent claims is patentable over the references provided.

Applicant filed a request for reconsideration on April 11, 2005 to address the noted deficiencies. A decision was rendered on May 16, 2005 stating that it was not clear exactly what petitioner was maintaining as to the relationship of the art and the references, and that under either proposed interpretation, the undersigned found the showing inadequate.

In preparation for a meeting with Applicant's representative, Carl Brundidge, the undersigned reviewed approximately ten decisions on similar petitions. At the meeting, the undersigned agreed that one specific decision was in error because the petition specifically pointed to at least one feature and stated that the particular claim feature was not present in any of the prior art. Accordingly, statements as to the combinations of all the features not being in the prior art, although not helpful, were not dispositive.

The undersigned advised Applicant to submit a request for reconsideration pointing out the agreement and clarifying that the combination of elements referred to constitute a substantial portion of the claim, because this invention is a novel implementation of a method of data handling and there is a necessary interoperability among the steps in order to implement a complete method.

Applicant filed the renewed request for this application on July 11, 2005, specifically identifying it as the one for which agreement had been reached. The petition was inadvertently misdirected for decision and dismissed without consideration of the merits (in a communication mailed August 29, 2005) based on language in the previous decision which indicated that renewed petitions would not be entertained..

The aforementioned communication was not consistent with the direction given Applicant's representative and was an Office oversight. The paper submitted on July 11, 2005s was not a renewed petition, but rather a request for reconsideration ***submitted at the direction of the deciding official.*** The paper should have been entered and treated.

The Office regrets any inconvenience caused by this error and the previous Office communication. The undersigned has determined that all requirements for the granting of special status have been met by Applicant.

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 M.P.E.P. §708.02, Section VIII.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,736	09/17/2003	Masayuki Miyazaki	520.38178VV2	2652

20457 7590 08/11/2004

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

EXAMINER	
LAM, TUAN THIEU	

ART UNIT	PAPER NUMBER
2816	

DATE MAILED: 08/11/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450
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August 11, 2004

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209-9889

In Re Application of
MIYAZAKI, ET AL. : Withdrawal From Issue
Application No. 10/663,736 :
Filed: September 17, 2003 :
Title: SEMICONDUCTOR INTEGRATED CIRCUIT DEVICE

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Tim Callahan at (571) 272-1740.

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

James L. Dwyer
Director, Technology Center 2800
Communications

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OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Patent No. 7,098,939 :
Issue Date: August 29, 2006 :
Application No. 10/663,742 : ON PETITION
Filed: September 17, 2003 :
Attorney Docket No. 914-172 :

This is a decision on the request filed December 12, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee's data 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) 272-3208. 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.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

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

Mail Date: 05/28/2010

Applicant	: Stephen Kaminski	: DECISION ON REQUEST FOR
Patent Number	: 7630347	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/663,771	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1255** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PETER A. BORSARI
SUITE 206
2001 JEFFERSON DAVIS HWY.
ARLINGTON, VA 22202-3603

FAX RECEIVED

MAY 25 2005

OFFICE OF PETITIONS

In re Application of :
Sean Murphy et al :
Application No. 10/663,773 : ON PETITION
Filed: September 17, 2003 :
Attorney Docket No. 355.2806-02 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 19, 2004, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified
application became abandoned on June 20, 2004.

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

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

This matter is being referred to Technology Center AU 3611.

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

cc: PETER A. BORSARI
3 SOUTH FIELDWAY
REHOBOTH BEACH, DE 19971

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,790	09/17/2003	Ayami Tamai	P24216	3777

7055 7590 07/02/2008

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER	
LEE, SEUNG H	

ART UNIT	PAPER NUMBER
2887	

NOTIFICATION DATE	DELIVERY MODE
07/02/2008	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):

gbpatent@gbpatent.com
pto@gbpatent.com

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of
Ayami TAMAI
Application No.: 10/663,790
Filed: September 17, 2003
Attorney Docket No.: P24216

For: LABEL TO WHICH A PRODUCT CODE IS RECORDED, A PRODUCT WITH THE LABEL ATTACHED, A PRODUCT INFORMATION ACQUISITION APPARATUS AND A PRODUCT CODE EDITING APPARATUS

: DECISION ON REQUEST TO
: PARTICIPATE IN THE PATENT
: PROSECUTION HIGHWAY
: PILOT PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 20, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

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

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English translation of the allowable/patentable claim(s) and
    c. A statement that the English translation is accurate;
3. Applicant must

a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s) and
b. Submit a claims correspondence table in English;

4. Examination of the U.S. application has not begun;
5. Applicant must submit:
   a. Documentation of prior office action:
      i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
      ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then a copy of the Notification of Reasons for Refusal or
      iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;

   Further, if a copy of the documents from a or b above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
   b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
   c. A statement that the English translation is accurate;
6. Applicant must submit:
   a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
   b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

This request to participate in the PPH pilot program and petition meet the requirements (1) through (7), above.

CONCLUSION

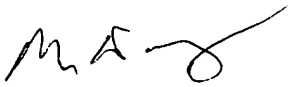
The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.PET.652.

Telephone inquiries concerning this decision should be directed to Michael Day at 571-272-1568.

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

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



Michael Day
TQAS
Technology Center 2800 – Semiconductors
Electrical & Optical Systems & Components

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ARNOLD INTERNATIONAL
P. O. BOX 129
GREAT FALLS, VA 22066-0129

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FEB 14 2007

OFFICE OF PETITIONS

In re Application of	:	
MORITA	:	
Application No.: 10/663,819	:	DECISION ON PETITION
Filing Date: September 17, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 20-133	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 28, 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 final Office action mailed August 15, 2005, which set a three (3) month shortened statutory period for response. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained, and a Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on November 16, 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 mailed August 15, 2005 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 2872 for appropriate action on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of

LUO, Wenjun
Application No. 10/663,854
Filed: September 16, 2003
Attorney Docket No. **590228001US1**

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 February 27, 2006.

The request is **APPROVED**.

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

The request was signed by Brian R. Coleman on behalf of all attorneys of record who are associated with customer No. 25096. 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: **WENJUN LUO**
21970 OAKNOLL COURT
CUPERTINO, CA 95014

cc: **MICHAEL LIU**
PRESIDENT AND CHIEF EXECUTIVE OFFICER
FONENET, INC.
4876 DEEP CREEK ROAD
FREMONT, CA 94555

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/663,854	09/16/2003	Wenjun Luo	590228001US1

CONFIRMATION NO. 2856

OC000000023695726

25096
PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Date Mailed: 05/04/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/27/2006.

o 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

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David L. Fehrman
Morrison & Foerster LLP
35th Floor
555 W. 5th Street
Los Angeles CA 90013

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DEC 14 2004

OFFICE OF PETITIONS

Applicant: Nishizawa
Appl. No.: 10/663,861
Filing Date: September 16, 2003
Title: ELECTRONIC DEVICE, PANEL STRUCTURE THEREOF AND METHOD OF MOUNTING INDICATOR THEREIN
Pub. No.: US 2004/0090342 A1
Pub. Date: May 13, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on July 9, 2004, for the above-identified application.

The request is granted.

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

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

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

PET. DEC.

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PAPER NO.

APR 14 2004

In re Application of	:	
Charles A. Richardson	:	
Serial Number: 10/663,886	:	DECISION
Filed: September 17, 2003	:	ON
For: PROCESS FOR RESTORING MAGNETIC	:	PETITION
RECORDING TAPE DAMAGED BY "STICKY SHED"	:	
SYNDROME	:	

This is in response to the petition filed September 17, 2003, requesting that the above-identified application be granted Special Status under Section 37 C.F.R. 1.102 and MPEP 708.02 VIII.

The petition has been considered and found to comply with the requirements set forth under the above-noted section.

Accordingly the petition is granted.

Marian C Knode

Marian C. Knode, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

H JAY SPIEGEL
P.O. BOX 444
MOUNT VERNON VA 22121

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William C. Schrot
Liniak, Berenato & White, LLC
Suite 240
6550 Rock Spring Drive
Bethesda MD 20817

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AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of :
Stephany Jean Head :
Application No. 10/663,912 : DECISION ON PETITION
Filed: September 17, 2003 : TO WITHDRAW
Attorney Docket No. 4803.001 : 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 January 05 2006.

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak attorney/agent of record on behalf of himself.

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

David Bucci
Petitions Examiner
Office of Petitions

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William C. Schrot
Liniak, Berenato & White, LLC
Suite 240
6550 Rock Spring Drive
Bethesda MD 20817

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OFFICE OF PETITIONS

In re Application of
Head
Application No. 10/663,912
Filed: September 17, 2003
Attorney Docket No. 4803.001

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak on behalf of himself.

All other attorneys/agents associated with this application remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : March 20,2008

TO SPE OF : ART UNIT 3762

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/663,920 Patent No.: 7294109 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

[redacted]

Comments: The change to column 14, line 56, in Claim 51 should be to the second "and"

PTOL-308 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

Angela D. Sykes
SPE, AU 3762

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JOHN A MILLER
WARN BURGESS & HOFFMANN PC
PO BOX 70098
ROCHESTER HILLS MI 48307

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JUL 15 2004

OFFICE OF PETITIONS

In re Application of :
Kenneth A. Kaufman, Garrett R. :
Wittkopp, Kenneth W. Kawahara, :
John E. Richer : DECISION ACCORDING STATUS
Application No. 10/663,924 : UNDER 37 CFR 1.47(a)
Filed: September 16, 2003
Attorney Docket No. NGC-00083 (11-1178)

This is in response to the "PETITION UNDER 37 CFR 1.47", filed September 16, 2003, which is being treated specifically as a petition under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on September 16, 2003, without a fully executed declaration. The declaration contained the signatures for inventors Kenneth A. Kaufman, Garrett R. Wittkopp, and Kenneth W. Kawahara; however, the signature block for inventor John E. Richer was left blank. Accompanying the filing of the application was the instant petition.

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 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has attested that inventor Richer was provided with a copy of the application papers. In support thereof, Rule 47 applicant has included a copy of a cover letter dated August 13, 2003, transmitting the application papers. In addition, attorney John A. Miller has attested that Richer made an oral refusal to sign the declaration in a telephone conversation that took place on or about September 2, 2003.

On petition, Rule 47 applicant satisfied the requirements of 37 CFR 1.47(a). The declaration submitted with the filing of the application has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 2821 for examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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CRAWFORD MAUNU PLLC
1150 NORTHLAND DRIVE, SUITE 100
ST. PAUL, MN 55120

Mail Date: 04/21/2010

Applicant	: Abbas El Gamal	: DECISION ON REQUEST FOR
Patent Number	: 7595883	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/663,935	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1121** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CRAWFORD MAUNU PLLC
1150 NORTHLAND DRIVE, SUITE 100
ST. PAUL, MN 55120

Mail Date: 05/18/2010

Applicant : Abbas El Gamal
Patent Number : 7595883
Issue Date : 09/29/2009
Application No: 10/663,935
Filed : 09/16/2003

: 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 **1167** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Samar Choudhary	: DECISION ON REQUEST FOR
Patent Number	: 7636919	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/663,952	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1860** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :
Hirohisa Tanabe et al :
Application No. 10/663,977 : DECISION GRANTING STATUS
Filed: September 17, 2003 : UNDER 37 CFR 1.47(A)
For: INTERFACE CIRCUIT :

This is in response to the petition under 37 CFR 1.47(a), filed March 8, 2004.

The petition is granted.

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

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

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 2181 for examination in due course.

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

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GEORGE FUKUTOMI
7-9-5, TAKAYANAGI, NEYAGAWA
OSAKA, JAPAN 572-0051 AIR MAIL

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JUL 0 1 2004

OFFICE OF PETITIONS

In re Application of
Tanabe; Fukutomi; Hiratsuka; and Odaguchi
Application No. 10/663,977
Filed: September 17, 2003
For: INTERFACE CIRCUIT

Dear Mr. Fukutomi:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

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

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United States Patent and Trademark Office
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ONE FOUNTAIN SQUARE
11911 FREEDOM DRIVE
SUITE 750
RESTON, VA 20190

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NOV 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,574,618 :
Issue Date: August 11, 2009 :
Application No. 10/663,977 : ON PETITION
Filed: September 17, 2003 :
Attorney Docket No. 031794-3 :

This is a decision on the petition filed September 30, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. 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/
Carl Friedman
Petitions Examiner
Office of Petitions

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

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WILMER CUTLER PICKERING HALE AND DORR LLP
399 PARK AVENUE
NEW YORK, NY 10022

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OFFICE OF PETITIONS

In re Application of :
Dickory Rudduck :
Application No. 10/663,978 :
Filed: September 17, 2003 :
Attorney Docket No. 112427.131US1

ON PETITION

This is a decision on the petition, filed November 22, 2005 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3726 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,983	09/17/2003	Mehmet Ozgur	2672-45	1957

23117 7590 09/28/2005

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
PHAM, THANH V	

ART UNIT	PAPER NUMBER
2823	

DATE MAILED: 09/28/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 092705

Robert A. Molan
Nixon & Vanderhye P. C.
1100 North Glebe Road, 8th floor
Arlington, VA 22201-4714

Appl No.: 10/663983
Inv: Ozgur
Filed: September 17, 2003
For: INTEGRATED ELECTROMECHANICAL SWITCH AND TUNABLE CAPACITOR AND METHOD OF MAKING THE SAME

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

This is a decision on the applicant's "Petition to Correct And/Or Add to Originally Named Inventors to a Patent" filed under 37 CFR 1.48 filed May 18, 2005. The applicant requests that the name Mona Zaghloul be added to the earlier indicated sole inventor as originally filed, namely, Mehmet Ozgur.

After a careful review of the file and applicant having supplied all of the information and requirements of 37 CFR 1.48(a):

1) Request for the change:

2) Statement from the additional inventor that the omission was without deceptive intent;

3) New oath executed by all new inventors;

4) Fee:

5) Statement from the assignee consenting to the change.

Therefore, the petition is hereby **granted**.

The image file is being updated with this information and messages forwarded to Publication Branch to ensure the correct inventors will be printed with the patent when it issues.

Matthew S. Smith

Supervisory Primary Examiner AU 2825

Technology Center 2800

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER
	092705

DATE MAILED:

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

Commissioner for Patents

The Decision granting the Petition to Add a New Inventor has been drafted and accompanies this action. The necessary steps are being made to ensure that the patent issues with the correct inventors.

MATTHEW SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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MAR 19 2009

OFFICE OF PETITIONS

In re Application of
Kalim Mir
Application No. 10/664,000
Filed: September 16, 2003
Attorney Docket No: 067024-5009

ON PETITION

This is a decision on the petition filed March 12, 2009 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 August 6, 2008. 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 November 7, 2008. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 1634 for appropriate action on the amendment filed March 12, 2009.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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LOS ANGELES

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Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 11

JAMES W PAUL
FOR FULWIDER PATTON LEE & UTECHT LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE WEST
LOS ANGELES , CA 90045

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OCT 22 2001
OFFICE OF PETITIONS

In re Application of
David A. Ferrera, Daniel Kurz, Peter Wilson, Crystal Sein-Lwin, Lok A. Lei, and Joseph A. Horton
Application No. 09/590,794
Filed: June 8, 2000
Attorney Docket No. MICRU:54769
Title: THREE DIMENSIONAL, LOW FRICTION COIL, AND METHOD OF MANUFACTURE

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

This is in response to the renewed petition under 37 C.F.R. 1.47(a)[1], filed September 10, 20012.

The renewed petition under 37 C.F.R. §1.47(a) is **GRANTED**.

The above-identified application was filed on June 8, 2000, without an executed oath or declaration, and naming the above identified individuals as joint inventors. On August 28, 2000, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

2 The renewed petition contains a certificate of mailing dated September 5, 2001.

Granted" (Notice), requiring an executed oath or declaration in compliance with §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the original petition, received in the Office on January 30, 2001. The original petition was dismissed for failure to establish that the non-signing inventor was presented with a copy of the entire application. This decision was mailed on July 3, 2001.

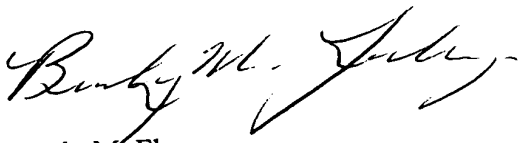
With the instant petition, the petitioner has submitted a declaration of David G. Parkhurst, who has first-hand knowledge that a complete copy of the application was sent to the non-signing inventor at his last known address. Furthermore, the petitioner has included a copy of the certified mail receipt.

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(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Daniel Kurz
341 S. Bernard Avenue
Sunnyvale, CA 94086

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OFFICE OF PETITIONS

In re Application of
David A. Ferrera, Daniel Kurz, Peter Wilson, Crystal Sein-Lwin, Lok A. Lei, and Joseph A. Horton
Application No. 09/590,794
Filed: June 8, 2000
Attorney Docket No. MICRU:54769
Title: THREE DIMENSIONAL, LOW FRICTION COIL, AND METHOD OF MANUFACTURE

LETTER

Dear Mr. Kurz:

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, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to

the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

JAMES W PAUL
FOR FULWIDER PATTON LEE & UTECHT LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE WEST
LOS ANGELES , CA 90045

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Paper No. 11

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FOR FULWIDER PATTON LEE & UTECHT LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE WEST
LOS ANGELES , CA 90045

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OFFICE OF PETITIONS

In re Application of
David A. Ferrera, Daniel Kurz, Peter Wilson, Crystal Sein-Lwin, Lok A. Lei, and Joseph A. Horton
Application No. 09/590,794
Filed: June 8, 2000
Attorney Docket No. MICRU:54769
Title: THREE DIMENSIONAL, LOW FRICTION COIL, AND METHOD OF MANUFACTURE

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

This is in response to the renewed petition under 37 C.F.R. 1.47(a)[1], filed September 10, 20012.

The renewed petition under 37 C.F.R. §1.47(a) is **GRANTED**.

The above-identified application was filed on June 8, 2000, without an executed oath or declaration, and naming the above identified individuals as joint inventors. On August 28, 2000, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

2 The renewed petition contains a certificate of mailing dated September 5, 2001.

Granted" (Notice), requiring an executed oath or declaration in compliance with §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the original petition, received in the Office on January 30, 2001. The original petition was dismissed for failure to establish that the non-signing inventor was presented with a copy of the entire application. This decision was mailed on July 3, 2001.

With the instant petition, the petitioner has submitted a declaration of David G. Parkhurst, who has first-hand knowledge that a complete copy of the application was sent to the non-signing inventor at his last known address. Furthermore, the petitioner has included a copy of the certified mail receipt.

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(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
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for Patent Examination Policy

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OFFICE OF COUNSEL, CODE XDC1
17320 DAHLGREN ROAD
DAHLGREN, VA 22448-5110

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SEP 20 2005

OFFICE OF PETITIONS

In re Application of :
Brown, et al. : PETITION DECISION
Application No. 10/664,003 : UNDER 37 CFR 1.78(a)(3)
Filed: September 16, 2003 :
Dkt. No.: 84685 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 2, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision 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 forwarded to Technology Center Art Unit 1714 for appropriate action on the amendment filed March 2,

2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/664,025	09/15/2003	1646	2142	G-077US03DIV	10	46	14

CONFIRMATION NO. 2603

CORRECTED FILING RECEIPT

OC000000011791717

23557
SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET
SUITE A-1
GAINESVILLE, FL 326066669

Date Mailed: 02/11/2004

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

Applicant(s)

Jean-Baptiste Dumas Milne Edwards, Paris, FRANCE;
Severin Jobert, Paris, FRANCE;
Jean-Yves Giordano, Paris, FRANCE;

Domestic Priority data as claimed by applicant

This application is a DIV of 09/621,976 07/21/2000 PAT 6,639,063
which claims benefit of 60/147,499 08/05/1999

Foreign Applications

If Required, Foreign Filing License Granted: 01/09/2004

Projected Publication Date: 05/06/2004

Non-Publication Request: No

Early Publication Request: No

Title

ESTs and encoded human proteins

Preliminary Class

536

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 17 2006

OFFICE OF PETITIONS

In re Application of :
Handa, et al. :
Application No. 10/664,036 : DECISION
Filing Date: 17 September, 2003 :
Attorney Docket No.: 123776 :

This is a decision on the petition filed on 14 December, 2005, averring non-receipt of an Office action and so considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition considered under 37 C.F.R.§1.181 is **DISMISSED**.

NOTES:

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.

(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. §1.181."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[1]

BACKGROUND

The record reflects that:

- Applicant failed to reply timely and properly to the non-final Office action–copy enclosed–mailed on 4 April, 2005, with reply due absent and extension of time on or before Tuesday, 5 July, 2005;
- the instant application went abandoned by operation of law after midnight 4 July, 2005;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- on 14 December, 2005, Petitioner filed the instant petition, averring non-receipt of the Office action in question and alleges that Office records reflect that the Office action in question could not have been received because it was returned to the Office by the US Postal Service (USPS) as undelivered.

Although the application went abandoned by operation of law after midnight 4 July, 2005, no action was taken by anyone herein to seek relief under 37 C.F.R.§1.181 until more than five (5) months after abandonment.

Petitioner avers and acknowledges that he was not the Counsel of record at the time the application went abandoned, and–in fact–he did not file of record a Revocation/Power of Attorney empowering him executed on 11 May, 2005, until 27 May, 2005.

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[1] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

Moreover, what is clear from the record is that the Office action in question was mailed to the address of record–to wit: that of former Counsel at Parkhurst & Wendell LLP, Ste. 210, 1421 Prince Street, Alexandria, Virginia 2231402805–on 4 April, 2005, and found by USPS to be undeliverable at the Parkhurst & Wendell LLP forwarding address (P.O. Box 20249, Alexandria, Virginia 22320-1249) on or about 10 April, 2005.

Thus, what is clear is that Applicant's former Counsel changed address without advance Notice to the Office as is required, and that burden falls to the Applicants and their now-Counsel, the Petitioner herein.

Moreover, either Petitioner was unaware of the state of affairs in the instant matter because he did not review the record herein at the time he became of record (27 May, 2005), or he was aware of the state of affairs at that time and did not act to seek relief at that time until months later.

Clearly the burden is not that of the Office.

Petitioner, as one registered to practice before the Office is well aware of this reality and, thus, that the submission of a request to withdraw the holding of abandonment is not appropriate herein.

Petitioner is referred to the guidance in the Commentary at MPEP §403.[2]

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[2] The commentary at MPEP §403 provides, in pertinent part:

403 Correspondence — With Whom Held [R-3]
37 CFR 1.33. Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

* * *

37 CFR 1.33(a) provides for an applicant to supply an address to receive correspondence from the U.S. Patent and Trademark Office so that the Office may direct mail to any address of applicant's selection, such as a corporate patent department, a firm of attorneys or agents, or an individual attorney, agent, or other person.

37 CFR 1.33(a) provides that in a patent application the applicant must specify a correspondence address to which the Office will send notices, letters and other communications relating to the application. The correspondence address must appear either in an application data sheet (37 CFR 1.76) or in a clearly *>identifiable< manner elsewhere in any papers submitted with an application filing. Where more than one correspondence address is specified, the Office will determine which one to establish as the correspondence address. This is intended to cover>, for example,< the situation where an application is submitted with multiple addresses, such as one correspondence address being given in the application transmittal letter, and a different one in an accompanying 37 CFR 1.63 oath or declaration, or other similar situations. The determination of which of the correspondence addresses to use will be made on a case-by-case basis, considering such factors as the earliest correspondence address submitted, and the first listed correspondence address if conflicting addresses appear in the same declaration. >If more than one correspondence address is specified in a single document, the Office will use the address associated with a Customer Number over a typed correspondence address.<

37 CFR 1.33(a) requests the submission of a daytime telephone number of the party to whom correspondence is to be addressed. While business is to be conducted on the written record (37 CFR 1.2), a daytime telephone number would be useful in initiating contact that could later be reduced to writing. The telephone number would be changeable by any party who could change the correspondence address.

37 CFR 1.33(a)(1) provides that any party filing the application and setting forth a correspondence address could later change the correspondence address provided that a 37 CFR 1.63 oath/declaration by any of the inventors has not been submitted. If one joint inventor filed an application, the person who may change the correspondence address would include only the one inventor who filed the application, even if another inventor was identified on the application transmittal letter. If two of three inventors filed the application, the two inventors filing the application would be needed to change the correspondence address. Additionally, any registered practitioner named in the application transmittal

letter, or a person who has the authority to act on behalf of the party that will be the assignee (if the application was filed by the party that will be the assignee), could change the correspondence address. A registered practitioner named in a letterhead would not be sufficient, but rather a clear identification of the individual as being a representative would be required. A company (to whom the invention has been assigned, or to whom there is an obligation to assign the invention) who files an application, is permitted to designate the correspondence address, and to change the correspondence address, until such time as a (first) 37 CFR 1.63 oath/declara-tion is filed. The mere filing of a 37 CFR 1.63 oath/ declaration that does not include a correspondence address does not affect any correspondence address previously established on the filing of the application, or changed per 37 CFR 1.63(a)(1), even if the application was filed by a company that is only a partial assignee. The expression "party that will be the assignee," rather than assignee, is used in that until a declaration is submitted, inventors have only been identified, and any attempted assignment, or partial assignment, cannot operate for Office purposes until the declaration is supplied. Hence, if the application transmittal letter indicates that the application is being filed on behalf of XYZ company, with an assignment to be filed later, XYZ company would be allowed to change the correspondence address without resort to 37 CFR 3.73(b) until an executed oath or declaration is filed, and with resort to 37 CFR 3.73(b) after the oath or declaration is filed.

Where a correspondence address was set forth or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of a 37 CFR 1.63 oath or declaration), that correspondence address remains in effect upon filing of a 37 CFR 1.63 declaration and can then only be changed pursuant to 37 CFR 1.33(a)(2).

37 CFR 1.33 states that when an attorney >or agent< has been duly appointed to prosecute an application>,< correspondence will be held with the attorney >or agent< unless some other correspondence address has been given. >If an attorney or agent of record assigns a correspondence address which is different than an address where the attorney or agent normally receives mail, the attorney or agent is reminded that 37 CFR 10.57 requires the attorney or agent to keep information obtained by attorney/agent – client relationship in confidence.< Double correspondence with an applicant and his or her attorney, or with two representatives, will not be undertaken. See MPEP § 403.01, § 403.02, and § 714.01(d).

If double correspondence is attempted, form paragraph 4.01 should be included in the next Office action.

* * *

I. < CUSTOMER NUMBER PRACTICE

A Customer Number (previously a "Payor Number") may be used to:

(A) designate the correspondence address of a patent application **>or patent< such that the correspondence address for the patent application >or patent< would be the address associated with the Customer Number >(37 CFR 1.32(a)(4)(i))<;

(B) designate the fee address (37 CFR 1.363) of a patent ** such that the fee address for the patent would be the address associated with the Customer Number >(37 CFR 1.32(a)(4)(ii))<; and

(C) submit a list of practitioners ** such that ** those practitioners associated with the Customer Number >would have power of attorney (37 CFR 1.32(a)(4)(iii))<.

Thus, a Customer Number may be used to designate the address associated with the Customer Number as the correspondence address of an application (or patent) or the fee address of a patent, and may also be used to submit a power of attorney in the application (or patent) to the registered practitioners associated with the Customer Number.

Applicant may use either the same or different customer number(s) for the correspondence address, the fee address and/or a list of practitioners. The customer number associated with the correspondence address is the Customer Number used to obtain access to the Patent Application Information Retrieval (PAIR) system at http://pair.uspto.gov. See MPEP § 1730 for additional information regarding PAIR.

* * *

The Office will also accept requests submitted electronically *via* a computer-readable diskette to **change the correspondence address of a list of applications or patents or the fee address for a list of patents to the address associated with a Customer Number**>.<

Such electronic requests must be submitted in the manner set forth in the Notice entitled "Extension of the Payor Number Practice (through "Customer Numbers") to Matters Involving Pending Patent Applications," published in the *Federal Register* at 61 FR 54622, 54623-24 (October 21, 1996), and in the *Official Gazette* at 1191 O. G. 187, 188-89 (October 29, 1996). >Note that such electronic requests are no longer accepted to change the power of attorney in a patent application or patent. See the notice entitled "Notice of Elimination of Batch Update Practice to Change Power of Attorney," published in the *Official Gazette* at 1272 O.G. 24 (July 1, 2003).<

**>With Customer Number practice, a< patentee **>is also< able to designate a "fee address" for the receipt of maintenance fee correspondence, and a different address for the receipt of all other correspondence. The designation of a "fee address" by reference to a Customer Number will not affect or be affected by the designation of a correspondence address by reference to another Customer Number, in that the Office will send maintenance fee correspondence to the address associated with the Customer Number designated as the "fee address" and will send all other correspondence to the address associated with the Customer Number designated as the correspondence address.

The association of a list of practitioners with a Customer Number will permit an applicant to appoint all of the practitioners associated with the Customer Number merely by reference to the Customer Number in the Power of Attorney (i.e., without individually listing the practitioners in the Power of Attorney). The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number >by submitting a corresponding "Request for Customer Number Data Change" (PTO/SB/124)< will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant >or assignee of the entire interest of the applicant< who appointed all of the practitioners associated with such Customer Number. This will avoid the necessity for the filing of additional papers in each patent application affected by a change in the practitioners of the law firm prosecuting the application. The appointment of practitioners associated with a Customer Number *>is< optional, in that any applicant may continue to individually name those practitioners to represent the applicant in a

Petitioner also is directed to the guidance in the Commentary at MPEP §603.[3]

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patent application>, so long as fewer than ten patent practitioners are named. See 37 CFR 1.32(c)(3)<.

The Customer Number practice does not affect the prohibition against, and does not amount to, an appointment of a law firm (rather than specified practitioners). The Office prohibits an appointment of a specified law firm because the Office cannot ascertain from its records whether a particular practitioner submitting a paper to the Office is associated with the law firm specified in an appointment. The Office will permit an appointment of all of the practitioners associated with a specified Customer Number because the Office can ascertain from its records for the specified Customer Number whether a particular practitioner is associated with that Customer Number.

As the Office will not recognize more than one correspondence address (37 CFR 1.33(a)), any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any othercorrespondence address provided in that application would be resolved in favor of the address of the Customer Number. Due to the prohibition against dual correspondence in an application (37 CFR 1.33(a)), an applicant will be permitted to provide only a single number at a time as the Customer Number for the correspondence address.

Where an applicant appoints all of the practitioners associated with a Customer Number as well as a list of individually named practitioners, such action would be treated as only an appointment of all of the practitioners associated with a Customer Number due to the potential for confusion and data entry errors in entering registration numbers from plural sources. >Furthermore, Office computer systems do not allow for entry of both a power of attorney to a list of practitioners associated with a Customer Number and a list of practitioners.<

Although Customer Numbers are designed to designate both a correspondence address and to associate one or more patent attorneys or agents with an application, one Customer Number may be used for the correspondence address, and another Customer Number may be used for the power of attorney.

Applicants are strongly cautioned not to attempt to appoint more than one Customer Number for a particular purpose (e.g., correspondence address) in a single communication, as such action will **not** have a cumulative effect.

The Office has created a *>Mail Stop< designation for correspondence related to a Customer Number ("**>Mail Stop EBC<"), and all correspondence related to a Customer Number (e.g., requests for a Customer Number) should be addressed to this *>mail stop< designation. The following persons are authorized to change the information associated with an established Customer Number: (1) a registered practitioner associated with the Customer Number; and (2) the person who requested the Customer Number (signed the Request for Customer Number, Form PTO/SB/125).

* * *

[3] The commentary at MPEP§603 provides in pertinent part:

601.03 Change of Correspondence Address [R-3]

37 CFR 1.33. Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

**>

(a)Correspondence address and daytime telephone number.

When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, *see* §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. The Office will not engage in double correspondence with an applicant and a registered patent attorney or patent agent, or with more than one registered patent attorney or patent agent except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if given, over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:<

(1) *Prior to filing of § 1.63 oath or declaration by any of the inventors.* If a § 1.63 oath or declaration has not been filed by any of the inventors, the correspondence address may be changed by the party who filed the application. If the application was filed by a registered attorney or agent, any other registered practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any registered practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.

(2) *Where a § 1.63 oath or declaration has been filed by any of the inventors.* If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).

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37 CFR 1.33(a) provides that the application must specify a correspondence address to which the Office will send notice, letters, and other communications relating to an application. The correspondence address must either be in an application data sheet (37 CFR 1.76) or in a clearly identifiable manner elsewhere in any papers submitted with the application filing. **>If more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if

given, over a typed correspondence address. Additionally, applicants will often specify the correspondence address in more than one paper that is filed with an application, and the address given in the different places sometimes conflicts. Where the applicant specifically directs the Office to use non-matching correspondence addresses in more than one paper, priority will be accorded to the correspondence address specified in the following order: (A) Application data sheet (ADS); (B) application transmittal; (C) oath or declaration (unless power of attorney is more current); and (D) power of attorney. Accordingly, if the ADS includes a typed correspondence address, and the declaration gives a different address (i.e., the address associated with a Customer Number) as the correspondence address, the Office will use the typed correspondence address as included on the ADS. In the experience of the Office, the ADS is the most recently created document and tends to have the most current address. After the correspondence address has been entered according to the above procedure, it will only be changed pursuant to 37 CFR 1.33(a)(1).<

The submission of a daytime telephone number of the party to whom correspondence is to be addressed is requested pursuant to 37 CFR 1.33(a). While business is to be conducted on the written record (37 CFR 1.2), a daytime telephone number would be useful in initiating contact that could later be reduced to * writing. Any party who could change the correspondence address could also change the telephone number. 37 CFR 1.33(a)(1) provides that the party filing the application and setting forth a correspondence address may later change the correspondence address provided that an executed oath or declaration under 37 CFR 1.63 by any of the inventors has not been filed. If a registered attorney or agent filed the application, any other registered practitioners named in the transmittal letter may change the correspondence address. A registered practitioner named in a letterhead would not be considered as being named in the transmittal letter for purposes of changing the correspondence address. A clear identification of the individual as a representative would be required. If an application is filed by a company to whom the invention has been assigned or to whom there is an obligation to assign the invention, a person who has the authority to act on behalf of the company may change the correspondence address. Thus, the inventor(s), any registered practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address pursuant to 37 CFR 1.33(a)(1). The filing of an executed oath or declaration that does not include a correspondence address does not affect any correspondence address previously established on filing of the application, or changed pursuant to 37 CFR 1.33(a)(1).

Where a correspondence address has been established on filing of the application or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of an executed oath or declaration under 37 CFR 1.63 by any of the inventors), that correspondence address remains in effect upon filing of an executed oath or declaration under 37 CFR 1.63 and can only be subsequently changed pursuant to 37 CFR 1.33(a)(2). Under 37 CFR 1.33(a)(2), where an executed oath or declaration under 37 CFR 1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a registered attorney or agent of record, (B) an assignee as provided for under 37 CFR 3.73(b), or (C) all of the applicants (37 CFR 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71. See 37 CFR1.33(a)(2).

Where an attorney or agent of record (or applicant, if he or she is prosecuting the application *pro se*) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). The notification should also include his or her telephone number. A change of correspondence address may not be signed by an attorney or agent not of record (see MPEP § 405).

Unless the correspondence address is designated as the address associated with a Customer Number, a separate notification must be filed in each application for which a person is intended to receive communications from the Office. See MPEP § 403 for Customer Number Practice. In those instances where a change in the correspondence address of a registered attorney or agent is necessary in a plurality of applications, the notification filed in each application may be a reproduction of a properly executed, original notification. The original notice may either be sent to the Office of Enrollment and Discipline as notification to the Attor-ney's Roster of the change of address, or may be retained by applicant. See MPEP § 502.02.

Special care should be taken in continuation or divisional applications to ensure that any change of correspondence address in a prior application is reflected in the continuation or divisional application. For example, where a copy of the oath or declaration from the prior application is submitted for a continuation or divisional application filed under 37 CFR 1.53(b) and the copy of the oath or declaration from the prior application designates an old correspondence address, the Office may not recognize, in the continuation or divisional application, the change of correspondence address made during the prosecution of the prior application. Applicant is required to identify the change of correspondence address in the continuation or divisional application to ensure that communications from the Office are mailed to the current correspondence address. 37 CFR 1.63(d)(4).

See MPEP § 711.03(c) for treatment of petitions to revive applications abandoned as a consequence of failure to timely receive an Office action addressed to the old correspondence address.

The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record.

The record is clear that the Office action in question was mailed to the address of record on that date, and the apparent combined failures of former Counsel to properly Notice the Office as to a change of address and/or present Counsel to more promptly obtain and submit a Revocation/Power of Attorney and review the record herein, again, is not a burden that falls to the Office.

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.[4]

The obligation (see 37 CFR *>11.11<) of a registered attorney or agent to notify the Attorney's Roster by letter of any change of his or her address for entry on the register is separate from the obligation to file a notice of change of address filed in individual applications. See MPEP § 402.

[4] 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

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).[5]

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.[6]

Delays in responding properly raise the question whether delays are unavoidable.[7] 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).[8] And the Petitioner must be diligent in attending to the matter.[9] 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

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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]

[5] 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.

[6] 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.

[7] 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).

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

[9] 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.[10]))

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.[11]

Further, the commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

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[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.

[11] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

* **

> 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). (Emphasis supplied.)

* * *

And the regulation (37 C.F.R. §1.181[12]) requires that relief be sought within two (2) months of the act complained of.

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[12] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Director.

<>

(a) Petition may be taken to the Director:

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

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Director.

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

(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

Thus, as of this writing Petitioner appears not to have satisfied and not to be able to satisfy the "showing" and "timeliness" requirement described above.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment may be petition alleging unintentional delay under 37 C.F.R. §1.137(b).[13]

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[14]

By mail: Commissioner for Patents[15]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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[13] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

[14] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is 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 .)

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

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[16]) 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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of
Handa, et al.
Application No. 10/664,036
Filing Date: 17 September, 2003
Attorney Docket No.: 123776

DECISION

This is a decision on the petition filed on 2 October, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

As discussed in the earlier decision, present Counsel does not appear to have been of record at the time the instant application went abandoned, and, therefore, cannot attest to the nature of the delay that resulted in abandonment.

The petition as considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

[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.**

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:

- Applicant failed to reply timely and properly to the non-final Office action–copy enclosed–mailed on 4 April, 2005, with reply due absent and extension of time on or before Tuesday, 5 July, 2005;
- the instant application went abandoned by operation of law after midnight 4 July, 2005;
- it does not appear that the Office mailed a Notice of Abandonment before the original petition was filed;
- on 14 December, 2005, Petitioner filed the original petition, seeking relief under 37 C.F.R. §1.181 averring non-receipt of the Office action in question and alleging that Office records reflect that the Office action in question could not have been received because it was returned to the Office by the US Postal Service (USPS) as undelivered;
- although the application went abandoned by operation of law after midnight 4 July, 2005, no action was taken by anyone herein to seek relief under 37 C.F.R.§1.181 until more than five (5) months after abandonment–at which time Petitioner averred and acknowledged that he was not the Counsel of record at the time the application went abandoned, and–in fact–he did not file of record a Revocation/Power of Attorney empowering him executed on 11 May, 2005, until 27 May, 2005;
- because the record is clear that, *inter alia*, the Office action in question was mailed to the address of record[2] and that Applicant's former Counsel changed address without advance

[2] The address of former Counsel at Parkhurst & Wendell LLP, Ste. 210, 1421 Prince Street, Alexandria, Virginia 2231402805–on 4 April, 2005, and found by USPS to be undeliverable at the Parkhurst & Wendell LLP forwarding address (P.O. Box 20249, Alexandria, Virginia 22320-1249) on or about 10 April, 2005.

Notice to the Office as is required, and that burden falls to the Applicants and their now-Counsel, the Petitioner herein[3]–and so the petition was dismissed on 17 August, 2006;

- on 2 October, 2006, Petitioner filed the instant petition, with fee, reply in the form of an amendment (previously filed) and made a statement of unintentional delay–however, once again, Petitioner is reminded that he appears not to have been of record at the time the application went abandoned, and so cannot make the statement as to the nature of the delay herein–a statement that appears only can be made by former Counsel, Applicant and/or Assignee of record.

Petitioner is referred to the guidance in the Commentary at MPEP §711.03(c).

The record is clear that the Office action in question was mailed to the address of record on that date, and the apparent combined failures of former Counsel to properly Notice the Office as to a change of address and/or present Counsel to more promptly obtain and submit a Revocation/Power of Attorney and review the record herein, again, is not a burden that falls to the Office.

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.[4]

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[3] Either Petitioner was unaware of the state of affairs in the instant matter because he did not review the record herein at the time he became of record (27 May, 2005), or he was aware of the state of affairs at that time and did not act to seek relief at that time until months later.

[4] 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,

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).[5]

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.[6]

Delays in responding properly raise the question whether delays are unavoidable.[7] 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).[8]

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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]

[5] 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.

[6] 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.

[7] 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).

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

And the Petitioner must be diligent in attending to the matter.[9] 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.[10]))

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

It appears that Petitioner has not satisfied the "statement/showing" requirement of the regulation.

CONCLUSION

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

Further correspondence with respect to this matter should be addressed as follows:[11]

By mail: Commissioner for Patents[12]
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

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[9] 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.

[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.

[11] 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 .)

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

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[13]) 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

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

§1.2 Business to be transacted in writing.

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

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OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of
Handa, et al.
Application No. 10/664,036
Filing Date: 17 September, 2003
Attorney Docket No.: 123776

DECISION

This is a decision on the petition filed on 12 December, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the requirements of the regulation, as set forth below:

BACKGROUND

The record reflects that:

Applicant failed to reply timely and properly to the non-final Office action–copy enclosed–mailed on 4 April, 2005, with reply due absent and extension of time on or before Tuesday, 5 July, 2005.

The instant application went abandoned by operation of law after midnight 4 July, 2005.

It does not appear that the Office mailed a Notice of Abandonment before the original petition was filed.

On 14 December, 2005, Petitioner filed the original petition, seeking relief under 37 C.F.R. §1.181 averring non-receipt of the Office action in question and alleging that Office records reflect that the Office action in question could not have been received because it was returned to the Office by the US Postal Service (USPS) as undelivered;

Although the application went abandoned by operation of law after midnight 4 July, 2005, no action was taken by anyone herein to seek relief under 37 C.F.R.§1.181 until more than five (5) months after abandonment–at which time Petitioner averred and acknowledged that he was not the Counsel of record at the time the application went abandoned, and–in fact–he did not file of record a Revocation/Power of Attorney empowering him executed on 11 May, 2005, until 27 May, 2005.

Because the record is clear that, *inter alia*, the Office action in question was mailed to the address of record and that Applicant's former Counsel changed address without advance Notice to the Office as is required, and that burden falls to the Applicants and their now-Counsel, the Petitioner herein–and so the petition was dismissed on 17 August, 2006;

The Office mailed the Notice of Abandonment on 3 October, 2006.

On 2 October, 2006, Petitioner filed a second petition, with fee, reply in the form of an amendment (previously filed) and made a statement of unintentional delay–however, again, Petitioner was not of record at the time the application went abandoned and could not make the statement as to the nature of the delay herein–a statement that appears only can be made by former Counsel, Applicant and/or Assignee of record—the petition was dismissed on 9 October, 2007.

On 12 December, 2007, Petitioner filed the instant petition (with fee) with supporting statement from former Counsel in support of the allegation of unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of an argument/remarks submitted on 2 October, 2006, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an

applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

CONCLUSION

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

The instant application is released to Technology Center/AU 2879 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center/AU OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

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FAIRFAX, VA 22030

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DEC 15 2008

In re Application of	:	
John W. STOCKSTILL	:	
Application No. 10/664,039	:	DECISION ON PETITION
Filed: September 17, 2003	:	TO WITHDRAW
Attorney Docket No. MCOG-0002-UT1	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 17, 2008.

The request is **APPROVED**.

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

Steven B. Kelber has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of :
Barrett and Porter :
Application No.: 10/664,055 : DECISION ACCORDING
Filed: September 17, 2003 : RULE 47(a) STATUS
Attorney Docket No: 1875.5100000 :
For: INTERRUPT VERIFICATION SUPPORT MECHANISM :

This is in response to the petition under 37 CFR 1.47(a), filed June 14, 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 17, 2003, and was not accompanied by an oath or declaration or filing fee. A Notice to File Missing Parts of Nonprovisional Application was mailed on December 12, 2003, requiring an properly executed declaration, $130.00 surcharge, and filing and claim fees. The notice allowed an extendable period for reply of two months from its mailing date. On June 14, 2004, the instant petition was filed along with a request for an extension of time within the fourth month, and a declaration.

Petitioner has shown that inventor Porter is unavailable to join the filing of the above-identified application despite applicant's efforts to present inventor Porter with application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

This application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Richard Porter
320 Bristol Business Park
Coldharbour Lane
Bristol, United Kingdom, BS16 1EJ

COPY MAILED

SEP 24 2004

OFFICE OF PETITIONS

In re Application of :
Barrett and Porter :
Application No. 10/664,055 : LETTER
Filed: September 17, 2003 :
Attorney Docket No. 1875.5100000 :
For: INTERRUPT VERIFICATION SUPPORT MECHANISM

Dear Mr. Porter:

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
Petitions Attorney
Office of Petitions

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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AUG 22 2008

In re Application of :
Geoff Barrett et al :
Application No. 10/664,055 : ON PETITION
Filed: September 17, 2003 :
Attorney Docket No. 1875.5100000 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file 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 September 5, 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 November 6, 2007. See MPEP 1215.04.

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 $2230 extension of time submitted with the petition on May 9, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's credit card.

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

This matter is being referred to Technology Center AU 2183 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

Paper No. None

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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JUL 3 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Konstantin Nikolaevitch	:	
Koshelev et al.	:	DECISION ON PETITION
Application No. 10/664,065	:	UNDER 37 C.F.R. §1.181
Filed: September 17, 2003	:	
Attorney Docket No.: 081468-0306001	:	
Title: RADIATION SOURCE, LITHOGRAPHIC APPARATUS AND DEVICE MANUFACTURING METHOD	:	

This is a decision on the petition filed on November 8, 2005, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The Office regrets the period of delay in issuing this decision.

BACKGROUND

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed April 19, 2005, which set a shortened statutory period to reply for one month. No extensions of time under the provisions of 37 CFR 1.136(a) were received. Accordingly, the above-identified application became abandoned on May 20, 2005. A Notice of abandonment was mailed on October 25, 2005.

RELEVANT PORTION OF THE MPEP

Section 503 of the MPEP, entitled Application Number and Filing Receipt, sets forth, in part:

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 postcard 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.

ANALYSIS

With the present petition, Petitioner has asserted that a response to this communication was submitted on May 18, 2005. Petitioner has submitted a copy of this submission, and it contains a postcard receipt which contains the identifying data "Response/Amendment" and "Amd/Resp Transmittal," as well as a date stamp from the Office of Initial Patent Examination dated May 18, 2005.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that a submission was timely submitted.

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 notify the Examiner of this decision, so that the response which was received with the present petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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In re Application of	:	
Konstantin Nikolaevitch Koshelev, et al.	:	
Application No. 10/664,065	:	DECISION GRANTING PETITION
Filed: September 17, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 081468-0306001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 11, 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 5, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2881 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090910

DATE : September 10, 2009

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction on Patent No.: 7528395

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:

/ROBERT KIM/
Supervisory Patent Examiner.Art Unit 2881

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.
10/664,073	09/17/2003	Edward J. Crawford	FIS920000188US2	5068

48144 7590 11/07/2007

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

EXAMINER	
TRAN, BINH X	

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
11/07/2007	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
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

GC

Mailed: 11-7-07

In re application of :
Crawford, Edward J. :
Serial No. 10/664,073 : DECISION ON
Filed: September 17, 2003 : PETITION
For: FIB/RIE METHOD FOR IN-LINE CIRCUIT :
MODIFICATION OF MICROELECTRONIC :
CHIPS CONTAINING ORGANIC DIELECTRIC :

This is a decision on the PETITION UNDER 37 CFR 1.181 TO PROVIDE A COMPLETE RESPONSE IN ACCORDANCE WITH MPEP §707.07 (f), filed on November 14, 2005.

On September 17, 2003 a Preliminary Amendment was filed with the filing of the instant Application. A requirement for Election of Species was mailed on June 21, 2005. Applicant's Response and Election was received on July 7, 2005. A Non-Final was mailed to Applicants on August 12, 2005. Applicant filed a Response to the Non-Final Rejection on November 14, 2005. A Petition under 37 CFR 1.181 to provide a complete response was filed on November 14, 2005.

Petitioner has argued that the Non-Final Office Action mailed on August 12, 2005 is incomplete in that it does not address the previous arguments presented by Applicant in the Preliminary Amendment filed September 17, 2003.

DECISION

Section 707.07(f) [R-3] Answer All Material Traversed of the MPEP states:

In order to provide a complete application file history and to enhance the clarity of the prosecution history record, an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application. Where the requirements are traversed, or suspension thereof requested, the examiner should make proper reference thereto in his or her action on the amendment. Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it. If applicant's arguments are persuasive and upon reconsideration of the rejection, the examiner determines that the previous rejection should be withdrawn, the examiner must provide in the next Office communication the reasons why the previous rejection is withdrawn by referring specifically to the page(s) and line(s) of applicant's remarks which form the basis for withdrawing the rejection. It is not acceptable for the examiner to merely indicate that all of applicant's remarks form the basis for withdrawing the previous rejection. Form paragraph 7.38.01 may be used. If the withdrawal of the previous rejection results in the allowance of the claims, the reasons, which form the basis for the withdrawal of the previous rejection, may be included in a reasons for allowance. See MPEP § 1302.14. If applicant's arguments are persuasive and the examiner

determines that the previous rejection should be withdrawn but that, upon further consideration, a new ground of rejection should be made, form paragraph 7.38.02 may be used. See MPEP § 706.07(a) to determine whether the Office action may be made final. If a rejection of record is to be applied to a new or amended claim, specific identification of that ground of rejection, as by citation of the paragraph in the former Office letter in which the rejection was originally stated, should be given.

Petitioner argues that the arguments presented in the Preliminary Amendment filed on September 17, 2003 have not been addressed by the Examiner in the Office Action mailed on August 12, 2005.

Petitioner's arguments are persuasive. The Examiner has repeated a rejection (from the Parent Application) without taking note of Applicant's argument (presented with the Preliminary Amendment) and answering the substance of it as required by MPEP §707.07 (f).

Accordingly, the Petition to provide a complete response in accordance with MPEP §707.07 (f) is **GRANTED**.

The Application is forwarded to the Examiner for consideration of the Arguments presented with the Preliminary Amendment filed on September 17, 2003.

JMStone

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of :
MALLORY, Chester L. :
Application No. 10/664,087 : DECISION ON PETITION
Filed: September 16, 2003 : TO WITHDRAW
Attorney Docket No. **TP-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 May 22, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed.

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

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **CHESTER L. MALLORY**
TLA GAMING, LLC
110 WOODLAND AVENUE
RENO, NV 89523

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT A. KENT
HALLIBURTON ENERGY SERVICES
2600 S. 2ND STREET
DUCAN, OK 73536

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JUL 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Bradley L. Todd, et al.	:	
Application No. 10/664,126	:	DECISION GRANTING PETITION
Filed: September 17, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2003-IP-010228U1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 6, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 10, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1796 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 11, 2007

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction on Patent No.: 7120396 B2

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

☒ **Approved** orange paper for scanning

☐ **Approved i** hanges **do not** apply.

☐ **Denied** enial below.

Comments:

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

2618
Art Unit

SPE

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 7,120,396 B2

APPLICATION NO. : 10/664,164

ISSUE DATE : October 10, 2006

INVENTOR(S) : Martin WILSON

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

After the section "Related U.S. Application Data" and before the section "Intl. Cl." , insert:
– **Foreign Application Priority Data**
September 22, 1999 (GB).....9922469.3
September 21, 2000 (WO).....PCT/GB00/03619 –

In the section "Prior Publication Data", after the last line, insert:
– WO 01/22675 A1 March 29, 2001 –

Col. 2, line 31, after "the transmit signal which," change "tun" to –turn– .

Col. 7, line 38, change "therebetween in" to –therebetween. In–.

Col. 8, line 67, change "The charge pump S" to –The charge pump **5**–.

Col. 12, line 12, after "arranged to," change "stun" to –sum–.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Aaron S Kamlay
KENYON & KENYON LLP
1500 K St. Suite 700
Washington DC 20005

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.**

JAN 1 5 2007

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P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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APR 11 2007

OFFICE OF PETITIONS

In re Application of :
Yuji Imaizumi et al :
Application No. 10/664,165 : ON PETITION
Filed: September 17, 2003 :
Attorney Docket No. 0283-0178P

This is a decision on the petition, filed April 9, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 13, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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Alexandria, VA 22313-1450
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ROSENBERG KLEIN & LEE
SUITE 101
3458 ELLICOTT CENTER DRIVE
ELLICOTT CITY, MD 21043

COPY MAILED

SEP 2 2 2005

OFFICE OF PETITIONS

In re Patent No. 6,834,481 :
Issue Date: December 28, 2004 :
Application No. 10/664,167 : ON PETITION
Filed: September 17, 2003 :
Attorney Docket No. 2450-0550P :

This is a decision on the petition filed July 29, 2005, which is being treated under 37 CFR 1.182, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3220.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

This matter is being referred to Files Repository.

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

cc: Krystal Paige, South Tower C-32 (FAX 746-4642)

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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GENERAL ELECTRIC COMPANY
GE AVIATION
ONE NEUMANN WAY MD F16
CINCINNATI OH 45215

MAILED

JUL 07 2010

OFFICE OF PETITIONS

In re Patent No. 6,905,302 :
Issue Date: June 14, 2005 :
Application No. 10/664,192 : ON PETITION
Filed: September 17, 2003 :
Attorney Docket No. GE120338 :

This is a decision on the petition under 37 CFR 1.378(b), filed October 23, 2009, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

This petition lacks item (1) above. Petitioner did not provide any showing or explanation on how the delay in paying the maintenance fee was unavoidable. Further, petitioner submitted the unintentional surcharge of $1640.00. It is unclear whether the delay is intended to be unavoidable or unintentional.

The file does not indicate a change of address has been submitted since June 22, 2005, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record. Petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted.

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

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

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

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

Telephone inquiries should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

cc: ERNEST G. CUSICK
GENERAL ELECTRIC COMPANY
1 RIVER ROAD
SCHENECTADY, NY 12345

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ___

DATE : ~~9/12/07~~ 7/30/07

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/664215 Patent No: 6986872 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: _____

Jill Warren
SPE

1797
Art Unit

copy

10/664,223

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ALEXANDRIA, VA 22313-1450
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JUL 22 2005
VIDAS, ARRETT & STEINKRAUS P.A.

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

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JUL 18 2005

OFFICE OF PETITIONS

In re Application of
John A. Clancy, et al.
Application No. 10/664,223
Filed: September 17, 2003
Attorney Docket No. A39.2-10912

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed June 16, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before April 4, 2005. Receipt is acknowledged of the requisite issue/publication fee on June16, 2005.

The application 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

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DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

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JUL 1 0 2006

OFFICE OF PETITIONS

In re Application of
Michael K. Wills
Application No. 10/664,226
Filed: September 16, 2003
Attorney Docket No. 1070405-991100

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before November 16, 2005. A Notice of Abandonment was mailed on December 16, 2005. In response, on January 13, 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 requisite issue/publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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FEB 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Masami Urano et al :
Application No. 10/664,258 :
Filed: September 17, 2003 :
Attorney Docket No. 96790P441 :

ON PETITION

This is a decision on the petition, filed January 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 13, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2822 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

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VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA MN 55343-9185

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JUL 27 2005

OFFICE OF PETITIONS

Applicant: Lawrence et al.
Appl. No.: 10/664,265
Filing Date: September 17, 2003
Title: BOTTLEWASH ADDITIVE
Attorney Docket No.: E14.2P-10817-US02
Pub. No.: US 2005/0037939 A1
Pub. Date: February 17, 2005

This is a decision on the paper titled a "Request for Correction of Notice of Publication of Application", filed on April 1, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the Notice of Publication of Application be corrected because the assignee was improperly listed as "Scimed Life Systems, Inc." on the front page of the publication when the assignee is "Ecolab Inc."

The Notice of Publication cannot be reprinted with the typographical correction as requested, as there is not a method to regenerate the Notice.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The instant request does not identify a material mistake in the publication made by the office. The assignee's name was correctly printed on the patent application publication in accordance with the name provided on the Application Data Sheet (ADS).[2] The office prints the assignee information as reflected on the transmittal letter or application data sheet, if provided by applicant. The request for a corrected filing receipt and ADS received on March 18, 2005, which indicated that the assignee is "Ecolab Inc" was received after the publication of the 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).

[2] See Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

On November 9, 2004, a Filing Receipt was mailed, which listed the assignee as "Scimed Life Systems, Inc." To avoid this type of problem in the future, applicant's representative should make a request for a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Applicant's request for a Corrected Notice of Publication on April 1, 2005, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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

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TEXAS INSTRUMENTS INCORPORATED
PO BOX 655474, MS 3999
DALLAS, TX 75265

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Kaiping liu :
Application No. 10/664,271 :
Filed: September 17, 2003 : ON PETITION
Attorney Docket No.: TI-35564

This is a decision on the Petition to Revive Patent Application Unavoidably Abandoned Under 37 CFR 1.137(a), filed April 8, 2005. The petition is properly treated under 37 CFR 1.181.

The petition is **granted.**

The above-identified application became abandoned for failure to timely and properly reply to the Office action, mailed July 1, 2004. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on October 2. A Notice of Abandonment was mailed on February 9, 2005.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant avers that the Office action, mailed July 1, 2004, was never received. Applicant further asserts that the Office action was incorrectly mailed to an incorrect correspondence address.

A review of Office records reveal that Applicant is correct. This Office inadvertently changed the correspondence address in the above-identified application and mailed to Office action to an incorrect correspondence address.

Office records have been corrected to reflect the correct attorney of record and correspondence address.

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

No fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 3422 for remailing of the Office action. A copy of the July 1, 2004 Office action is also enclosed herewith.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

Enclosure: July 1, 2004 Office action

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

MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

In re Application of

HERMANN, et al.
Application No. 10/664,273
Filed: September 16, 2003
Attorney Docket No. 506512002000

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 June 23, 2006.

The request is **APPROVED**.

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

The request was signed by Tomas E. Ciotti on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. Novare Surgical Systems, Inc. properly intervened on September 13, 2003. All future communications from the Office will be directed to Novare Surgical Systems, Inc. at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed June 6, 2006 that requires a reply from the applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **Novare Surgical Systems, INC.**
10231 Bubb Road
Cupertino, CA 95014

cc: George A. Coury
BACKMAN & LAPOINTE, PC
900 Chapel Street, Suite 1201
New Haven, CT 06510

cc: **Vitalitec International, Inc.**
10 Cordage Park Circle, Suite 100
Plymouth, Massachusetts 02360

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

In re Application of
Samuel Moreau, et al.
Application No. 10/664,275
Filed: September 16, 2003
For: **SYSTEM AND METHOD FOR CONSTRUCTION, DELIVERY AND DISPLAY OF ITV APPLICATIONS THAT BLEND PROGRAMMING INFORMATION OF ON-DEMAND AND BROADCAST SERVICE OFFERINGS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed December 15, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:

(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

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

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

DEC - 6 2004

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DEC - 6 2004

OFFICE OF THE DIRECTOR
TC 3600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

In re application of
Katherine Woo
Application No. 10/664,289
Filed: September 16, 2003
For: METHOD AND SYSTEM FOR OFFERING A MONEY-BACK GUARANTEE IN A NETWORK-BASED MARKETPLACE

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 15, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

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

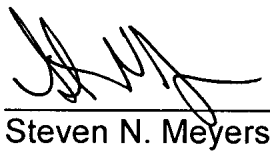
A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

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

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

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

As to Item B), the reason "Discontinuation of the attorney/client relationship" is not appropriate since it is not clear that the client initiated the discontinuation, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.



Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/664,305	09/16/2003	3682	714	CAM3-PT050	6	53	4

CONFIRMATION NO. 4343

CORRECTED FILING RECEIPT

OC000000012835652

3624
VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Date Mailed: 06/03/2004

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

Applicant(s)

Gianfranco Guderzo, Vicenza, ITALY;
Giuseppe Dal Pra', Vicenza, ITALY;

Assignment For Published Patent Application

Campagnolo S.r.l., Vicenza, ITALY;

Domestic Priority data as claimed by applicant

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 02425751.1 12/06/2002

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

Projected Publication Date: 06/10/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Electronically servo-assisted bicycle gearshift and related method

Preliminary Class

474

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 : 7/26/07

TO SPE OF : ART UNIT 3682

SUBJECT : Request for Certificate of Correction on Patent No.: 7223189

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER

SPE

3682
Art Unit

1774

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Andrew D. Stover
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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SEP 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Hoo et al. :
Application No. 10/664,342 : ON PETITION
Deposited: September 17, 2003 :
Attorney Docket No.: 659/1770 :
Title: WET ROLL HAVING UNIFORM :
COMPOSITION DISTRIBUTION :

This is a decision on the petition to accord filing date filed June 17, 2004, requesting that the above-identified application be accorded a filing date of September 17, 2003.

Application papers in the above-identified application were deposited on September 17, 2003. However, on May 10, 2004 the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.[1]

In response, 10 sheets of drawings, including figures 1-15 and the present petition were filed on June 17, 2004. The petition contends that the application as filed contained 10 sheets of drawings including figures 1-15 and were described in the original filed specification. In support, the petition is accompanied by a copy of applicants' postcard receipt which acknowledges receipt in the office of " 10 sheets Formal Drawings" on September 17, 2003.

Applicant's postcard receipt is prima facie[2] evidence that drawings were received on September 17, 2003, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is

---

[1] See 35 U.S.C. 111(a)(4)

[2] A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.

concluded that 10 sheets of drawings, including figures 1-15, were received on September 17, 2003, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted. No petition fee is due. Deposit account 23-1925 has been credited the $130.00 petition fee.

Since the original drawings cannot be located in the Office, the copy of the drawings supplied on June 17, 2004, will be used for processing and examination purposes.

The application will then be returned to the Office of Initial Patent Examination for further processing with a **filing date of September 17, 2003**, using the 10 sheets of drawings supplied on June 17, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251 until September 24, 2004 thereafter (571) 272-3215.

Charlema R. Grant
Petition Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of
Suetsugu et al.
Application No. 10/664,355
Filed: September 17, 2003
Title: Negative Type Resist Composition

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed July 11, 2007.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of February 8, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was filed on May 8, 2006. An advisory action was mailed on May 26, 2006, informing applicant that the May 8, 2006 amendment failed to place the application in condition for allowance. A second amendment after final Office action and two month extension of time were filed on July 10, 2006. This petition was held abandoned on July 9, 2006. A Notice of Abandonment was mailed on May 23, 2007.

Petitioner contends the holding of abandonment should be withdrawn because a timely reply to the final Office action was submitted on July 10, 2006.

A review of the Office record shows that the Office received the amendment after final Office Action on July 10, 2006. The Notice of abandonment shows that the application went abandoned not for the failure to reply to the final Office Action, but for the failure to submit a reply within the meaning of 37 CFR 1.113. The amendment submitted on July 10, 2006 was required to place the application in condition for allowance. Based on the

Notice of Abandonment, the Examiner determined the July 10, 2006 amendment failed to place the application in condition of allowance.

Further, pursuant to 37 CFR 1.116 (b) the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. MPEP 711.03 (c) is clear that an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, when the applicant simply permits the maximum extendable statutory period for reply to expire while awaiting a notice of allowance or other action.

Petitioner may wish to file a petition to revive 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PO BOX 747
FALLS CHURCH VA 22040-0747

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DEC 19 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
Suetsugu et al.
Application No.10/664,355
Filed: September 17, 2003
Title of Invention: Negative Type Resist Composition

This is a decision on the petition under 37 CFR §1.137(b), filed October 29, 2007.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of February 8, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was filed on May 8, 2006. An advisory action was mailed on May 26, 2006, informing applicant that the May 8, 2006 amendment failed to place the application in condition for allowance. A second amendment after final Office action and two month extension of time were filed on July 10, 2006. This application was held abandoned on July 9, 2006. A Notice of Abandonment was mailed on May 23, 2007. A petition filed under 1.181 was dismissed on August 27, 2007

The petition is **GRANTED**.

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

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

The Request for Continued Examination (RCE), and the amendment submitted with the instant petition will be forwarded to Art Unit 1752 for appropriate action by the Examiner in the normal course of business.

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

Charlema R. Grant

Charlema R. Grant

Petitions Attorney

Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/22/2010

Applicant	: Masumi Suetsugu	: DECISION ON REQUEST FOR
Patent Number	: RE40964	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/664,355	: OF WYETH
Filed	: 09/17/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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ALEXANDRIA, VA 22313-1450
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HUMAN GENOME SCIENCES INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

MAILED

APR 17 2009

OFFICE OF PETITIONS

Applicant: Rosen et al.
Appl. No.: 10/664,357
Filing Date: September 20, 2003
Title: 251 HUMAN SECRETED PROTEINS
Attorney Docket: PS901
Pub. No.: US 2007/0055056A1
Pub. Date: March 8, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 8, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains the material error of not including the proper tables on the PSIPS website.

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 or revised patent application publication other than 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]

However, the link set forth in the publication, http://seqdata.uspto.gov/?pageRequest=docDetail&DocID=US20070055056A1, links to the proper information.

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

[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).

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.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Inquiries relating to this matter may be directed to Michael Cygan at (571) 272-7700, or to the undersigned at (571) 272-7709.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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CHRIS A. CASEIRO
VERRILL AND DANA, LLP
ONE PORTLAND SQUARE
PORTLAND, ME 04112-0586

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DEC 28 2004

OFFICE OF PETITIONS

In re Application of :
Vaikko P. Allen II, et al. :
Application No. 10/664,376 : ON PETITION
Filed: September 17, 2003 :
Attorney Docket No. VOR-002 :

This is a decision on the petition, filed December 21, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 4, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1724 for further processing of the request for continued examination under 37 CFR 1.114 filed December 21, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

CENTURY IP GROUP, INC. [Main]
P.O. BOX 7333
NEWPORT BEACH CA 92658-7333

In re Application of :
Amit Heller, et al. :
Application No. 10/664,390 : DECISION ON PETITION
Filed: September 17, 2003 : TO WITHDRAW
Attorney Docket No. 1005-02-01 USP : 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 3, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioners were not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number). The power of attorney filed September 7, 2005 does not have the required statement under 37 CFR 3.73(b) listing the reel and frame number of the recorded assignment.

There is an outstanding Office action mailed May 18, 2009 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: IXI MOBILE (R&D), LTD
PO BOX 2543
17 HA 'TIDHAR ST
RA'ANANA, 43665 ISRAEL

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/664,397	09/17/2003	1751	750	C4244(C)		10	1

CONFIRMATION NO. 4436

CORRECTED FILING RECEIPT

OC000000011798681

00201
UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER, NJ 07020

Date Mailed: 01/30/2004

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)

Mario Jovelino Del Nunzio, Sao Paulo, BRAZIL;
Paulo Cesar Puelle Andrade, Sao Paulo, BRAZIL;
Andrew Thomas Steel, Sao Paulo, BRAZIL;

Assignment For Published Patent Application

Unilever Home & Personal Care USA, Division of Conopco, Inc.;

Domestic Priority data as claimed by applicant

Foreign Applications

UNITED KINGDOM 0221738.8 09/19/2002

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

Projected Publication Date: 03/25/2004

Non-Publication Request: No

Early Publication Request: No

Title

Detergent compositions

Preliminary Class

510

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

GRANTED

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

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

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

NOT GRANTED

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

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Hahn Loeser & Parks, LLP
One GOJO Plaza
Suite 300
Akron, OH 44311-1076

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OFFICE OF PETITIONS

In re Application of :

Courtney Jones :
Application No. 10/664,407 : DECISION ON PETITION
Filed: September 19, 2003 : TO WITHDRAW
Attorney Docket No. 200150.1 : 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 December 20, 2006.

The request is **APPROVED**.

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

The request was signed by Scott M. Oldham on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

All future correspondence will be directed to the first named inventor Courtney Jones at the first address indicated below.

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Courtney Jones**
826 Cal Cove Drive
Ft. Myers, FL 33919

cc: **Blu Ventures, LLC**
13451 McGregor Blvd., Suite 32
Ft. Myers, FL 33919

OCT 30 2003
PATENT & TRADEMARK OFFICE

Status-30

PATENT
Attorney Docket No. NAS-001
(9347/2)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS:	Sanders		
SERIAL NO.:	10/664,408	GROUP NO.:	Not yet assigned 1745
FILING DATE:	9/17/03	EXAMINER:	Not yet assigned Mercado
TITLE:	Electrochemical Generation, Storage and Reaction of Hydrogen and Oxygen		

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

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

Sir:

Pursuant to 37 C.F.R. § 1.102(c) and MPEP§ 708.02 V-VI, Applicants hereby petition the Commissioner to make the subject application special so that it may be advanced out of turn for immediate action. Applicants submit that the subject application should be made special because the invention will materially enhance the quality of the environment and/or materially contribute to the conservation of energy resources. In particular, one or more of the claims of the application relate to methods for producing, storing, releasing, and/or using hydrogen gas as an energy source. Accordingly, use of alternative energy sources such as fossil fuels can be reduced, thereby conserving fossil fuel-based energy resources and subsequently reducing emissions resulting from their combustion. Maintenance of basic life-sustaining natural elements is thereby achieved.

Applicants believe that no fee is due with this Petition and respectfully request that this Petition be granted.

Respectfully submitted,

GE Worth

Date: October 28, 2003
Reg. No. 45,238

Gerald E. Worth
Attorney for Applicant
Testa, Hurwitz, & Thibeault, LLP
High Street Tower
125 High Street
Boston, Massachusetts 02110

Tel. No.: (617) 248-7870
Fax No.: (617) 248-7100

2702416

PETITION GRANTED

Richard Crispino

Richard Crispino
Special Program Examiner
TC 1700

APR 26 2005

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United States Patent and Trademark Office
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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MAY 07 2004

OFFICE OF PETITIONS

In re Application of
Chiang Bing, Kenneth Gainey, James Proctor, Antoine Rouphael, Griffin Gothard and Michael Lynch
Application No. 10/664,413
Filed: September 17, 2003
Attorney Docket Number: 2479.2171-001
Title of Invention: LOW COST MULTIPLE PATTERN ANTENNA FOR USE WITH MULTIPLE RECEIVER SYSTEMS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 17, 2004 (certificate of mailing February 13, 2004).

The petition is GRANTED.

Petitioner has shown that the non-signing inventors Gainey and Proctor 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. The non-signing inventors' failure to respond to the application mailing sufficiently establishes that they refuse to execute the application papers.

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

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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& FELD L.L.P.
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Philadelphia, PA 19103

MAIL

AUG 0 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Bruce Holenstein et al.
Application No.: 10/664,418
Filed: September 17, 2003
For: ASYNCHRONOUS COORDINATED COMMIT REPLICATION AND DUAL WRITE WITH REPLICATION TRANSMISSION AND LOCKING OF TARGET DATABASE

) DECISION ON PETITION TO MAKE
) SPECIAL UNDER 37 C.F.R. §1.102(c)
) AND MPEP § 708.02 (IV):
) APPLICANT'S AGE

This is a decision on the petition, filed July 19, 2005 under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

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

The petition includes declaration by Wilbur H. Highleyman, one of the applicants, asserting that declarant/applicant is sixty five (65) years of age or more.

Accordingly, the petition is **GRANTED.**

The application is being forwarded to the examiner for expedited prosecution and to consider the change of inventorship.

Michelle R. Eason por

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Michael R. Krawzsenek
Fulbright & Jaworski L.L.P.
Suite 2400
600 Congress Avenue
Austin, TX 78701

Mail Date: 04/21/2010

Applicant	: Guy A. Rouleau	: DECISION ON REQUEST FOR
Patent Number	: 7655460	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/664,423	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **622** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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GARY E. PARKER
PATENT DEPARTMENT
ZYMOGENETICS, INC.
1201 EASTLAKE AVENUE EAST
SEATTLE, WA 98102

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OFFICE OF PETITIONS

In re Application of :
Hart et al. :
Application No. 10/664,432 : DECISION ON PETITION
Filed: September 19, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 00-12D1

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 7, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional applications was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed provisional applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(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. §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 application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (703) 306-0482.

This matter is being referred to Technology Center AU 1646 for appropriate action on the amendment submitted June 7, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to 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

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Jeffrey V. Bamber
Attorney at Law
7567 Pinehurst Drive
Cincinnati, OH 45244

FEB
MAR 2 4 2006

In re Application of: Claire E. Bamber

Application No. 10/664439
Filed: September 19, 2003
Attorney Docket No. N/A

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR 1.313

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

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed October 19, 2004, are hereby vacated.

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

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

Telephone inquires should be directed to Karl Easthom at (571) 272-1989.

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

Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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THE GATES CORPORATION
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OFFICE OF PETITIONS

In re Application of
Serkh
Application No. 10/664,443
Filed: September 19, 2003
Attorney Docket No. T02-062A

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 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 June 6, 2005, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on September 7, 2005. A Notice of Abandonment was mailed on January 5, 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. Accordingly, the petition under 37 CFR 1.137(b) is **granted.**

This matter is being referred to Technology Center Art Unit 3862.

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

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CHICAGO, IL 60606-6306

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OFFICE OF PETITIONS

In re Application of :
Shuyi Zhang et al :
Application No. 10/664,451 : ON PETITION
Filed: September 20, 2003 :
Attorney Docket No. 115024.002 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 20, 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 January 21, 2007.

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

This matter is being referred to Technology Center AU 1615 for further processing.

Irvin Dingle
Petitions Examiner
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

Mailed: 11-17-06

In re application of Dubey et al. :
U.S. Patent No. 6,986,812 : **DECISION ON**
Issued: January 17, 2006 : **PETITION**
Application Number: 10/664,460 :
Filed: September 18, 2003 :
For: SLURRY FEED APPARATUS FOR FIBER: :
FIBER-REINFORCED STRUCTURAL :
CEMENTITIOUS PANEL PRODUCTION :

This is a decision on the petition filed on April 28, 2006 to correct inventorship in a patent under 37 CFR 1.324.

Decision

Applicants are deemed to have fulfilled the requirements under 37 CFR 1.324 in that the petition is accompanied by: (1) Statements from the currently named inventors, including the inventor whose name is being added, agreeing to the change of inventorship and that the error in inventorship occurred without deceptive intent; (2) A statement from the assignee of the parties submitting statements under (1) above agreeing to the change of inventorship in the patent in compliance with 37 CFR 3.73(b); and (3) the fee set forth in 37 CFR 1.20(b).

The petition is **GRANTED**.

The file is being forwarded to Certificate of Corrections Branch for Issuance of a certificate adding Joe W. Chambers, Alfred C. Li, and Paul Miller as a co-inventors with Ashish Dubey and Michael J. Porter.

Christopher A. Fiorilla
SPE AU 1734
Technology Center 1700
Chemical and Materials Engineering

GREER, BURNS & CRAIN
300 S WACKER DR
25TH FLOOR
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ALEX L. YIP
KAYE SCHOLER LLP
425 PARK AVENUE
NEW YORK NY 10022

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OFFICE OF PETITIONS

In re Application of	:
Michael L. Obradovich	: DECISION GRANTING PETITION
Application No. 10/664,477	: UNDER 37 CFR 1.182
Filed: 18 December, 2003	:
Attorney Docket No. 9800.1036	:

This is a decision on the petition under 37 CFR 1.182, filed on 18 December, 2003, to accord the application a filing date of 18 December, 2003, with a drawing of Figure 17 as a part of the original disclosure.

The petition is **granted**.

The application was filed on 18 September, 2003. However, on 11 December, 2003, Initial Patent Examination Division mailed a "Notice of Omitted Items in a Nonprovisional Application" stating that the application had been accorded a 18 September, 2003, filing date, but that the drawing of Figure 17 appeared to have been omitted.

In response, on 18 December, 2003, a drawing containing Figure 17 was filed accompanied by the present petition.

As petitioners have requested that the application be accorded the later filing date with Figure 17 as a part of the original disclosure, the application will be forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of 18 December, 2003, using the application papers filed on 18 September, 2003, and the copy of Figure 17 of the drawings filed on 18 December, 2003.

The application is being forwarded to the Office of Initial for reprocessing with a filing date of 18 December, 2003, using the application papers filed on 18 September, 2003, and the copy of Figure 17 filed on 18 December, 2003.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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JAN 18 2006

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re application of : **DECISION ON PETITION**
Manuel Becerra et al. : **TO MAKE SPECIAL**
Application No. 10/664,483 : **(ACCELERATED**
Filed: September 19, 2003 : **EXAMINATION)**
For: SYSTEMS AND METHODS FOR PROVIDING INSURANCE AND NON-INSURANCE PRODUCTS

This is in response to the petition filed on December 21, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

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

SNM/pav: 01/17/06

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DAVID L. FEHRMAN
MORRISON & FOERSTER LLP
35TH FLOOR
555 W. 5TH STREET
LOS ANGELES, CA 90013

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of :
Tsutomu Watanabe :
Application No. 10/664,488 :
Filed: September 17, 2003 : ON PETITION
Attorney Docket No.: :
39303204.1000 :

This is a decision on the Petition in Response to Notice of Omitted Item(s) in a Nonprovisional Application, filed May 20, 2005, requesting the above-identified application be accorded a filing date of September 17, 2003, including pages 1-3 of the specification.

The application was filed on September 14, 2004. On May 12, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice") stating that the application had been accorded a filing date; however, pages 1-3 of the specification appeared to have been omitted from the application.

Applicant responds with the instant petition wherein Applicant avers that pages 1-3 of the specification were originally filed with the application on September 17, 2003, and was 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*, 30 pages of specification, (including 8 claims and 1-page abstract), in the above-identified application by this Office on September 17, 2003.

A review of the return-receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of, *inter alia*, 30 pages of specification, (including 8 claims and 1-page abstract), in the above-identified application by this Office on September 17, 2003.

Moreover, a review of the application file reveals that 30 pages of specification, (including 8 claims and 1-page abstract), were received in the above-identified application by this Office on September 17, 2003.

In view of the above, the petition is granted.

The Notice, mailed May 12, 2005, was mailed in error and is hereby withdrawn.

The petition fee has been refunded to deposit account 03-1952.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of September 17, 2003, and an indication that 30 pages of specification, (including 8 claims and 1-page abstract) were present on filing, using pages 1-3 of the specification filed on September 17, 2003.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Levisohn, Berger & Langsam, LLP
19th Floor
805 Third Avenue
New York, NY 10022

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MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Ken Motush, et al. :
Application No. 10/664,507 :
Filed: September 16, 2003 :
Attorney Docket No. 5009.076 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 14, 2004, under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 21, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of March 17, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being referred to Technology Center Art Unit 3744 to await a reply to the non-final Office action mailed May 10, 2004. Failure to reply will again result in the abandonment of the application.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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TIM HEADLEY
GARDERE WYNNE SEWELL LLP
1000 LOUISIANA, SUITE 3400
HOUSTON, TX 77002

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OFFICE OF PETITIONS

In re Application of

Darouiche, et al. :

Application No. 10/664,519

: DECISION ON PETITION

Filed: September 17, 2003

:

Attorney Docket No. 124169-1010

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the *Ex Parte Quayle* action mailed December 8, 2006, which set a shortened period for reply of two (2) 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 February 9, 2007.

The response filed September 13, 2006, is noted.

The request for an extension of time within the third month is noted, but cannot be granted as the request was made outside the maximum statutory period for reply to the *Ex Parte Quayle* action. The amount of $510.00 will be refunded, in due course.

The application is being forwarded to Technology Center 3700, GAU 3768 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

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OFFICE OF PETITIONS

In re Application of :
Robert J. Apel :
Application No. 10/664,526 : NOTICE
Filed: September 17, 2003 :
Attorney Docket No. DOM1091-203

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

This file is being returned to Technology Center AU 3636.

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

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OFFICE OF PETITIONS

In re Application of :
Jean-Marc Bachot et al :
Application No. 10/664,541 : DECISION GRANTING PETITION
Filed: September 19, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. TI-27700A :

This is a decision on the petition under 37 CFR 1.137(b), filed April 19, 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. 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 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 July 29, 2004, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2186.

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

JJGJR.: 09-07

Paper No: __

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SEP 27 2007

OFFICE OF PETITIONS

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

In re Application of :
Houston :
Application No.: 10/664,547 :
Filing Date: 19 September, 2003 :
Attorney Docket No. TI-32205.1 :

DECISION

This is a decision on the petition filed on 26 October, 2006, supplemented on 24 September, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

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]

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 final Office action (copy enclosed) mailed on 24 March, 2006, with reply due absent extension of time on or before 24 June, 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.

- the application went abandoned by operation of law after midnight 24 June, 2006;
- the Office mailed a Notice of Abandonment on 6 October, 2006;
- on 26 October, 2006, Petitioner filed the instant petition with, *inter alia*, an averment that she did not receive a copy of the final Office action–and made the statements and provided documents required (see the Manual of Patent Examining Procedure provisions discussed below) in support thereof, and Petitioner supplemented her petition on 24 September, 2007, to detail for the Office how her docketing system operates and that one of the documents discussed in the Commentary of the Manual of Patent Examining Procedure (as set forth below) does not exist in her docketing system but that she had a colleague who is experienced with the docketing software generate an equivalent of the document to evidence that the instant application did not have a due date in Petitioner's docket system on the date in question;

On 26 October, 2006, Petitioner also filed a reply to the Office action in question in the form of a request for continued examination (RCE) and fee and an amendment as the submission under 37 C.F.R. §1.114.

Notably, 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 immediate and 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 as to 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.[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

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]

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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.

[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.

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]))

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.[9]

The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application

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[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.

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> 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). (Emphasis supplied.)
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has satisfied the showing as discussed above.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 6 October, 2006, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 2800 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[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

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[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.

Eeh

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,547	09/19/2003	Theodore W. Houston	TI-32205.1	4290

23494 7590 03/27/2006

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

EXAMINER
LEWIS, MONICA

ART UNIT	PAPER NUMBER
2822	

DATE MAILED: 03/27/2006

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

Office Action Summary	Application No.	Applicant(s)	
	10/664,547	HOUSTON, THEODORE W.	
	Examiner	Art Unit	
	Monica Lewis	2822	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 January 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *49-53* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *49-53* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *21 December 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to the amendment filed January 9, 2006.

Response to Arguments

2. Applicant's arguments with respect to claims 49-53 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 49-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Turner (U.S. Patent No. 5,357,132).

In regards to claim 49, Houston et al. ("Houston") discloses the following:

a) a dielectric layer (48) disposed between a substrate and a first metal layer (68) (For Example: See Figure 9);

b) a trench defined by a recess in the dielectric layer (For Example: See Figure 9);

c) a first contact pillar (64) extending substantially from a top surface of the substrate to a bottom surface of the first metal layer (68) within the trench (For Example: See Figure 9); and

d) a capacitor formed in the trench overlying the first contact pillar such that the capacitor is formed at least in part on a side of the first contact pillar, and the first contact pillar is a plate of the capacitor (For Example: See Column 6 Lines 46-50).

In regards to claim 50, Houston discloses the following:

a) a second contact pillar (62) extending substantially from a top surface of the substrate to a bottom surface of another portion of the first metal layer wherein the second contact pillar is substantially the same height as the first contact pillar (For Example: See Figure 9).

In regards to claim 51, Houston discloses the following:

a) the capacitor comprises a storage element of a memory cell (For Example: See Column 1 Lines 15-25).

In regards to claim 52, Houston discloses the following:

a) a storage node of the storage element comprises a first contact pillar (For Example: See Abstract).

Claim Rejections - 35 USC § 103

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

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

6. Claim 53 is rejected under 35 U.S.C. 103(a) as obvious over Turner (U.S. Patent No. 5,357,132) in view of Chen et al. (U.S. Patent No. 6,093,600) and Fisher et al. (U.S. Patent No. 5,962,885).

In regards to claim 53, Houston fails to disclose the following:

a) a storage node further comprises a conducting layer lining the trench and the side of the first contact pillar.

However, Fisher et al. ("Fisher") discloses the use of a storage node further that comprises a conducting layer (80) lining the trench and the side of the first contact pillar (70) (For Example: See Figure 6). It would have been obvious to one having ordinary skill in the art

at the time the invention was made to modify the semiconductor device of Houston to include storage node that comprises a conducting layer lining the trench and the side of the first contact pillar as disclosed in Fisher because it aids in increasing capacitance (For Example: See Column 1 Lines 51 and 52).

Additionally, since Houston and Fisher are both from the same field of endeavor (semiconductors), the purpose disclosed by Fisher would have been recognized in the pertinent art of Houston.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica Lewis whose telephone number is 571-272-1838. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zandra Smith can be reached on 571-272-2429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for regular and after final communications.

ML
March 16, 2006

Mary Wilczewski
Primary Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,550	09/19/2003	Seung June Yi	2101-3052	4285

35884 7590 06/29/2009

LEE, HONG, DEGERMAN, KANG & WAIMEY
660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES, CA 90017

EXAMINER	
KELLEY, CHRISTOPHER S	
ART UNIT	PAPER NUMBER
2424	

NOTIFICATION DATE	DELIVERY MODE
06/29/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@lhlaw.com
ip.lhlaw@gmail.com
ip.lhlaw@live.com

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JUN 26 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

LEE, HONG, DEGERMAN, KANG & WAIMEY
660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES CA 90017

In re Application of: Seung June YI, et al.
Application No. 10/664,550
Filed: September 19, 2003
For: MULTICAST SERVICE PROVIDING METHOD IN MOBILE COMMUNICATION SYSTEM

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed April 17, 2009, to make the above-identified application special.

The petition is **GRANTED.**

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

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

Telephone inquiries concerning this decision should be directed to Hassan Kizou at 571-272-3088

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

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

Hassan Kizou, Quality Assurance Specialist
Technology Center 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FROM DIRECTORS OFFICE

FEB 10 2006

TECHNOLOGY CENTER 3600

OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE, OH 43023

In re Application of
Bert W. Elliott
Application No. 10/664,552
Filed: September 19, 2003
For: LAMINATED STARTER SHINGLE FOR A ROOF COVERING

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on July 13, 2005. There is no fee for this petition.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action mailed October 18, 2004, which set a three-month shortened statutory period. A Notice of Abandonment was mailed on June 30, 2005 stating that the response received on April 02, 2004 did not constitute a proper reply

Petitioner contends that a response was faxed on January 14, 2005. The copy of the response bears a Certificate of Transmission signed by Brooke Spieth and dated January 14, 2005.

In this regard, any petition to withdraw the holding of abandonment based upon a Certificate of Transmission/Mailing must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission/Mailing which includes the date of signing; and

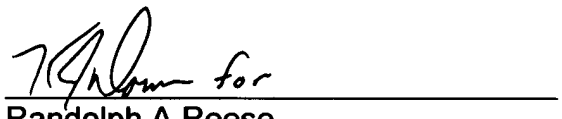
(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512), by the person who signed the certificate.

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate, in this instance, Brooke Spieth.

It is noted that all future patent application related correspondence transmitted by facsimile must be directed to the central facsimile number, (571) 273-8300. Correspondence such as draft proposals for interviews may be transmitted by facsimile to the Technology Centers. However, Office personal are not to use their personal facsimile numbers for official application related correspondence.

If Applicants are unable to satisfy the requirements for Certificate of Transmission/Mailing outlined above they should resubmit the request that the petition be treated as a petition to revive under 37 CFR. 1. 137(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(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."



Randolph A Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

RAR/rjc 10/14/05

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE OH 43023

COPY MAILED
JUL 25 2006
OFFICE OF PETITIONS

In re Application of :
Elliott et al. :
Application No. 10/664,552 : DECISION ON
Filed: September 18, 2003 : PETITION
Attorney Docket No. 25244A :

This is a decision on the Renewed Petition to Withdraw the Holding of Abandonment Under 37 C.F.R. § 1.181 filed March 24, 2006.

The above-identified application became abandoned effective January 19, 2005 for failure to file a timely and proper reply to the non-final Office action mailed October 18, 2004. A courtesy Notice of Abandonment was mailed on June 30, 2005.

By decision mailed February 10, 2006, the initial petition to withdraw the holding of abandonment filed July 13, 2005 was dismissed. Relying on 37 CFR 1.8(b), petitioner asserted that a timely response was transmitted by facsimile on January 14, 2005. In support thereof, petitioner submitted a copy of the response as maintained to have been faxed to the Office. However, the petition was dismissed because petitioner did not include a statement under 1.8(b)(3).

On instant renewed petition, petitioner submitted the statement of Brooke Spieth, the signer of the certificate of facsimile transmission, attesting to the personal knowledge of the transmitting of the original response as indicated on the certificate of facsimile transmission. Petitioner has satisfied the requirement of 1.8(b)(3) to include "a statement which

attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission."

In view thereof, the notice of abandonment mailed June 30, 2005 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3635 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the response to the Office action resubmitted on the initial petition filed July 13, 2005.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

John L. Knoble, Esq.
KNOBLE YOSHIDA & DUNLEAVY LLC
Eight Penn Center, Suite 1350
1628 John F. Kennedy Blvd.
Philadelphia PA 19103

COPY MAILED

AUG 15 2006

OFFICE OF PETITIONS

In re Application of :
Jeffrey Meisner, Walter P. :
Donnelly, and Richard Roosen :
Application No. 10/664,565 : DECISION ON PETITION
Filed: September 18, 2003 : UNDER 37 C.F.R. §1.47(a)
Attorney Docket Number: TRIS- :
1001USCON :
Title: AUGMENTED REALITY :
TECHNOLOGY :

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed March 12, 2004.

The Office regrets the period of delay in issuing this decision.

---

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of as set forth in 37 C.F.R. §1.17(g);
(2) the surcharge as set forth in 37 C.F.R. §1.16(e), if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 C.F.R. §1.63.

The above-identified application was filed on September 18, 2003, identifying Jeffrey Meisner, Walter P. Donnelly, and Richard Roosen as joint inventors. No oath or declaration was submitted on filing. On December 9, 2003, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" was mailed, indicating that an executed declaration would be required, along with the surcharge associated with the late filing of the same. The notice set a two-month period for response.

With the present petition, Petitioner has met each of the five requirements of Rule 1.47(a).

Therefore, the petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

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

The Technology Center will be notified of this decision.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Jeffrey Meisner
3313 40th Avenue South
Minneapolis, MN 55406-2224

COPY MAILED

AUG 15 2006

OFFICE OF PETITIONS

In re Application of :
Jeffrey Meisner, Walter P. Donnelly, :
and Richard Roosen :
Application No. 10/664,565 : LETTER
Filed: September 18, 2003 :
Attorney Docket Number: TRIS-1001USCON :
Title: AUGMENTED REALITY TECHNOLOGY :

Dear Mr. Meisner:

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 (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

cc: John L. Knoble, Esq.
KNOBLE YOSHIDA & DUNLEAVY LLC
Eight Penn Center, Suite 1350
1628 John F. Kennedy Blvd.
Philadelphia PA 19103

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Paper No. None

John L. Knoble, Esq.
KNOBLE YOSHIDA & DUNLEAVY LLC
Eight Penn Center, Suite 1350
1628 John F. Kennedy Blvd.
Philadelphia PA 19103

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of :
Jeffrey Meisner, Walter P. :
Donnelly, and Richard Roosen :
Application No. 10/664,565 : DECISION ON PETITION
Filed: September 18, 2003 : UNDER 37 C.F.R. §1.47(a)
Attorney Docket Number: TRIS-1001USCON :
Title: AUGMENTED REALITY TECHNOLOGY :

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed March 12, 2004.

The Office regrets the period of delay in issuing this decision.

---

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of as set forth in 37 C.F.R. §1.17(g);
(2) the surcharge as set forth in 37 C.F.R. §1.16(e), if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 C.F.R. §1.63.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/24/2005

TO SPE OF : ART UNIT 1600(1616)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,881,417

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 3-922
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments:

JOHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1600

SPE 1621 **Art Unit**

OIPE
JUN 30 2005
PATENT & TRADEMARK OFFICE

MICHAEL A. O'NEIL, P.C.
INTELLECTUAL PROPERTY ATTORNEYS AND COUNSELORS
5949 Sherry Lane, Suite 820
Dallas, Texas 75225
214-739-0088
Telecopier 214-739-8284
www.oneiliplaw.com

June 24, 2005

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

Certificate
JUL 0 8 2005
of Correction

Re:	Registration No.	US 6,881,417 B1
	Issued:	April 19, 2005
	For:	Method, Apparatus & Composition for Automatically Coating the Human Body with Plural Components
	Serial No.:	10/664,572
	Filed:	September 17, 2003
	Our File:	117645-1036

Sir:

Enclosed please find a Certificate of Correction for the subject patent. The Certificate of Correction contains errors made on the part of the Patent Office so no fee is enclosed. Below are minor errors that were made on the part of the Applicant and a certificate of correction is not deemed necessary. However, Applicant desires this letter of correction be made of record in the file.

IN OTHER PUBLICATIONS

Page 1, col. 2, line 1, replace "Dihydroxyaceton" with -- Dihydroxyacetone--.

Page 1, col. 2, line 3, replace "Dihydroxyaceton-containing" with -- Dihydroxyacetone-containing--.

Page 1, col. 2, line 8, replace "Dihydroxyaceton" with -- Dihydroxyacetone--.

Page 1, col. 2, lines 9-10, replace "Environmenta" with -- Environmental--.

Page 1, col. 2, line 13, replace "Dihydroxyaceton" with -- Dihydroxyacetone--.

Page 1, col. 2, line 18, replace "Cosmetics and perfumes" with -- Cosmetics and Perfumes--.

IN THE SPECIFICATION

Col. 2, line 33, replace "tanning formations" with --tanning formulations--.

Col. 14, line 52, replace "Binks high-efficiency" with --Binks' high-efficiency--.

IN THE ABSTRACT

Line 8, replace "composition is useful" with -- composition, which is useful--.

If you have any questions, please call me.

Very truly yours,

MICHAEL A. O'NEIL, P.C.

Michael A. O'Neil

Michael A. O'Neil

cc: Dr. Thomas J. Laughlin

Enclosure

PTO/SB/44 (02.01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. (Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : US 6,881,417 B1
DATED : April 19, 2005
INVENTOR(S) : Thomas J. Laughlin

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

IN THE SPECIFICATION

Col. 1, line 12, replace "which is continuation-in-part" with --which is a continuation-in-part--.

Col. 1, line 14, replace "application Ser. No. 09/294,689" with -- provisional application Ser. No. 60/154,948 filed September 21, 1999, abandoned, which is a continuation-in-part of application Ser. No. 09/294,689--.

Col. 1, line 36, replace "long standing" with --long-standing--.

Col. 2, line 19, replace "anti-microbial" with -- anti-microbials--.

Col. 2, lines 41-43, replace "retain more absorb or trap more formulation (e.g., the wrinkles in the elbows and knees and the dense tissue in the palms)" with -- retain more formulation. The result is that as the formulation is being spread manually, certain tissue absorb or trap more formulation (e.g., the wrinkles in the elbows and knees and the dense tissue in the palms)--.

Col. 4, line 24, replace "Dornicent" with --Domicent--.

Col. 6, lines 63-66, replace "Foaming Creme Bath (Chesebrough-Ponds, Greenwich, Conn.). The bronzer is a combination of FD&C dyes that yield a golden brown color. By way of example" with -- By way of example--.

Col. 7, line 30, replace "at a pH 3.0" with --at a pH of 3.0--.

Col. 8, lines 35-37, replace "depends will result in a very dark tan. The exact amount of dihydroxyacetone required depends on the skin" with -- depends on the skin--.

Col. 8, line 60, replace "electrostatic" with -- • electrostatic--.

MAILING ADDRESS OF SENDER: Michael A. O'Neil, P.C.
5949 Sherry Lane, Suite 820
Dallas, TX 75225

No. of additional copies ⇨

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comment on the amount of time you are required to complete this form should be sent to the Chief Information Officer. U.S. Patent and Trademark Office. Washington. DC 20231.DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents. Washington, DC 20231.

PTO/SB/44 (02.01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. (Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : US U.S. 6,881,417 B1
DATED : April 19, 2005
INVENTOR(S) : Thomas J. Laughlin

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

IN THE SPECIFICATION (Continued)

Col. 10, lines 36-37, replace "guide the cubic feet per minute per square foot, the air movement is sufficient to guide the" with -- guide the--.

Col. 12, lines 20-21, replace "with a includes both a coating chamber 32 adapted to receive a person to be coated with a" with --with a --.

Col. 14, lines 33-34, replace "feet separated about 12 inches
feet separated about 12 inches" with -- feet separated about 12 inches--.

Col. 15, lines 60-61, replace "mainly from the with the area with no sticker. The initial color was mainly from the" with -- mainly from the--.

Col. 16, line 66, replace "many of cosmetic" with -- many cosmetic--.

Col. 17, line 8, replace "systems with which" with -- systems which--.

Col. 17, line 20, replace "as is received" with -- is received--.

Col. 17, line 26, replace "having a dual" with --having dual--.

IN THE CLAIMS

Col. 18, Claim 1, line 55, replace "effect the first component" with -- affect the first component --.

MAILING ADDRESS OF SENDER: Michael A. O'Neil, P.C.
5949 Sherry Lane, Suite 820
Dallas, TX 75225

PATENT No. U.S. U.S. 6,881,417 B1
No. of additional copies ⇨

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comment on the amount of time you are required to complete this form should be sent to the Chief Information Officer. U.S. Patent and Trademark Office. Washington. DC 20231.DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents. Washington, DC 20231.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 06/17/2010

Applicant	: Michael Wu	: DECISION ON REQUEST FOR
Patent Number	: 7633937	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/664,591	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1490** 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

Michael R. Krawzsenek
Fulbright & Jaworski L.L.P.
600 Congress Avenue, Suite 2400
Austin TX 78701

MAILED

JUL 14 2009

OFFICE OF PETITIONS

In re Patent No. 7,528,093 :
Issue Date: May 5, 2009 :
Application No. 10/664,603 : ON PETITION
Filed: September 17, 2003 :
Attorney Docket No. GOUD:023USD1 :

This is a decision on the petition filed June 8, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

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

Charlema Grant
Petitions Attorney
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
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EDWARD D. MANZO
COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
200 WEST ADAMS ST., STE. 2850
CHICAGO IL 60606

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 10/664,615 : ON PETITION
Filed: September 19, 2003 :
Attorney Docket No. 0553-0200.01 :

This is a decision on the petition, filed June 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 9, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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

Paper No. _____

Date : June 2, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Shunpei Yamazaki et al
Application No. :10/664,615
Filed :September 19, 2003

The above-identified application has been assigned Patent No. 6,909,112 and an issue date of June 21, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 21, 2005:

"All reference to Patent No. 6,909,112 to Shunpei Yamazaki et al of Japan for SEMICONDUCTOR DEVICE AND MANUFACTURING METHOD THEREOF appearing in the Gazette of June 21, 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
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JANSSON SHUPE & MUNGER & ANTARAMIAN, LTD.
245 MAIN STREET
RACINE, WI 53403

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NOV 2 9 2005

OFFICE OF PETITIONS

In re Application of :
William B. Ardern II :
Application No. 10/664,634 : DECISION GRANTING PETITION
Filed: September 19, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ARD-101US :

This is a decision on the petition, filed November 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 October 24, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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TED D. LEE
GUNN, LEE & HANOR, PC
SUITE 1500
700 N. ST. MARY'S ST.
SAN ANTONIO, TX 78205

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Haney et al.	:	
Application No. 10/664,637	:	ON PETITION
Filed: September 19, 2003	:	
Attorney Docket No. P-7627(DIV)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 6, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

The $750.00 petition fee initially submitted with the instant petition was inadvertently replenished to the deposit account. Accordingly, $750.00 will now be charged to petitioner's deposit account, as authorized, to fulfill payment of the petition fee.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ISIS PHARMACEUTICALS INC
1896 RUTHERFORD RD.
CARLSBAD CA 92008

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MAY 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Vickers et al.	:	DECISION ON PETITION
Application No. 10/664,639	:	TO WITHDRAW
Filed: September 18, 2003	:	FROM RECORD
Attorney Docket No. CORE0027US	:	

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 12, 2006.

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

A review of the file record indicates that on July 12, 2006 the power of attorney to Isis Pharmaceuticals, Inc. (customer number 34138) 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 above 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: Woodcock Washburn LLP
Cira Centre, 12th Floor
2929 Arch Street
Philadelphia PA 19104-2891

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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9-16-08

Patent No. : 7,279,336 B2
Ser. No. : 10/664,658
Inventor(s) : Gelvin, et. al.
Issued : October 9, 2007
Title : METHODS AND COMPOSITIONS FOR ENHANCED PLANT CELL TRANSFORMATION
Docket No. : 3220-94790

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Alice O. Marin
Eva James
For Mary Diggs
Decisions & Certificates
Of Correction Branch
(703) 308-9390 ext.124 or 125

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

ej

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

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FEB 0 2 2009

OFFICE OF PETITIONS

In re Patent No. 7,279,336 :
Issue Date: October 9, 2007 :
Application No. 10/664,658 : ON PETITION
Filed: September 18, 2003 :
Attorney Docket No. 3220-94790 :

This is a decision on the Request for Certificate of Correction filed October 31, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

As authorized, the $130 fee for the petition will be charged to petitioner's deposit account.

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.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/10/09

TO SPE OF : ART UNIT 3734

SUBJECT : Request for Certificate of Correction for Appl. No.: 10664679 Patent No.: 7488343 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

SPE Art Un. 3734
Todd E. Manahan

6/17/09

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SEP 29 2009

OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,488,343
Issued: February 10, 2009
Application No. 10/664,679
Filed: September 16, 2003
Attorney Docket No. 10527-0462001 / 02-253

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed April 9, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from seven hundred sixty-two (762) days to one thousand eighty-five (1085) days.

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

On February 19, 2009, the above-identified application matured into US Patent No. 7,488,343 with a patent term adjustment of 762 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

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

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to an additional 410 days of patent term adjustment due to exceeding three year pendency.

The 410-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on September 16, 2003 and a request for continued examination (RCE) having being filed on October 31, 2007. [1] The filing of an RCE cuts-off the

[1] The Office notes the RCE was filed on October 31, 2007, as indicated in the Image File Wrapper, not October 30, 2007, as shown on the PTA Calculations Sheet.

applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1).

Patentees assert that in addition to this 410 day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 763 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 1 day for applicant delay.

Patentees assert that the total period of Office delay is the sum of the period of Three Years Delay to the filing of the RCE (410 days) and the period of Examination Delay (763 days) to the extent that these periods of delay are not overlapping.

Patentees contend that the period of Examination Delay and the Three Year Delay period overlap by 87 days.

Accordingly, patentees submit that the total period of Office Delay is 1086 days, which is the sum of the period of Three Year Delay (410 days) and the period of Examination Delay (763 days), reduced by the period of overlap (87 days). As such, patentees assert entitlement to a patent term adjustment of 1085 days (410 + 763 (756 +7) reduced by 87 overlap - 1 for applicant delay).

The Office agrees that as of the filing of the RCE on October 31, 2007, the application was pending three years and 410 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, a total period of adjustment of 763 days was entered for Office delay. At issue is whether patentees should accrue 410 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 763 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 410 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A).

As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

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

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

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

It is noted, however, that delays resulting in the Office's failure to meet the time frames specified in 35 U.S.C. 154(b)(1)(A) (the "fourteen-four-four-four" provisions) are not always overlapping with a delay resulting in the Office's failure to issue a patent within the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) because not all

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

application pendency time is counted toward this three-year period. See 35 U.S.C. 154(b)(1)(B)(i)-(iii).

In this instance, all application pendency time is not counted toward the three-year period. A request for continued examination was filed on October 31, 2007. The period subsequent to the filing of the RCE is not included in the three-year time frame specified in 35 U.S.C. 154(b)(1)(B). See 35 U.S.C. 154(b)(1)(B)(i). Thus, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period from September 16, 2003 to October 31, 2007. Thus, only the 756 days of patent term adjustment accorded prior to the filing of the RCE are considered in determining overlap. The 7 days for Office delay occurring subsequent to the filing of the RCE is not considered. The 410 days attributed to Office delay pursuant to 37 CFR 1.702(b) is determined to overlap with the 756 days attributed to Office delay pursuant to 37 CFR 1.702(a)(1). 763 (756 + 7) days is the actual number of days issuance of the patent was delayed. Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, the Office affirms the revised determination of patent term adjustment at the time of the issuance of the patent is 762 days (763 (756 + 7) days of Office delay – 1 days of applicant delay).

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

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
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,488,343
Issued: February 10, 2009
Application No. 10/664,679
Filed: September 16, 2003
Attorney Docket No. 10527-0462001

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the RESPONSE TO DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT filed on October 29, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 762 days to 1085 days. The Office is construing this request as a request under 1.181 to invoke supervisory authority of the Director and is filed within the two month time period pursuant to 37 CFR 1.181(f).

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 eighty-three (1083) 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 16, 2006 and ends on October 29, 2007, the day before the RCE was filed, and the B delay considering the 87 days of overlap is 408 (not 410 days. See 35 U.S.C. 154(b)(1)(B)(i). Non-overlapping B delay is 321 days. As such, the patent term adjustment is 1083, not 1085 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 eighty-three (1083)** days.

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

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,488,343 B2

DATED : February 10, 2009

INVENTOR(S) : Barry O'Brien

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 (762) days

Delete the phrase "by 762 days" and insert – by 1083 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JEFFER, MANGELS, BUTLER & MARMARO, LLP
1900 AVENUE OF THE STARS, 7TH FLOOR
LOS ANGELES, CA 90067

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OFFICE OF PETITIONS

In re Application of :
Kazutoshi KAIZUKA :
Application No. 10/664,682 : DECISION ON PETITION
Filed: September 19, 2003 :
Attorney Docket No. 67267-5002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 24, 2007, which set a shortened statutory period for reply of three (3) months. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of April 24, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)-272-4231.

This application is being referred to Technology Center AU 3732 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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COMMISSIONER FOR PATENTS
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NISKAYUNA NY 12309

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OFFICE OF PETITIONS

In re Application of :
Ramani Mani et al :
Application No. 10/664,695 : DECISION ON PETITION
Filed: September 22, 2003 :
Attorney Docket No. 125643-1 :

This is a decision on the petition, filed October 3, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of May 3, 2005, which set a three (3) month shortened statutory period for reply. A reply was due on or before August 3, 2005 or on or before November 3, 2005 with extensions of time pursuant to the provisions of 37 CFR 1.136(a). A Notice of Abandonment was mailed on September 20, 2006.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on August 5, 2005 of an amendment with a certificate of mailing. A copy of the previously submitted reply, bearing a certificate of mailing date of August 3, 2005, accompanies the petition.

The reply acknowledged as having been received in the USPTO on August 5, 2005 is not of record in the application file and has not to date been located. However, MPEP 503 provides 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, it is concluded that the reply having a certificate of mailing date of August 3, 2005

was timely received in the USPTO on August 5, 2005 but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply acknowledged as having been received by the USPTO on August 5, 2005.

This application is being referred to Technology Center AU 3746 for appropriate action in the normal course of business on the reply received with petition.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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ONE RESEARCH CIRCLE
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

Mail Date: 04/29/2010

Applicant	: Ramani Mani	: DECISION ON REQUEST FOR
Patent Number	: 7631483	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/664,695	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1265** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

Howard M. Peters
PETERS, VERNY, JONES & SCHMITT, L.L.P.
425 Sherman Avenue, Suite 6
Palo Alto CA 94306

In re Application of
Cheng Li et al.
Application No. 10/664,697
Filed: September 16, 2006
Attorney Docket No. 4003.13

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 4, 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).

Howard M. Peters signed the request on behalf of all attorneys of record.

Howard M. Peters and all attorneys/agents associated with application 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 or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed July 27, 2006 that requires a reply from the applicant

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Cheng Li
INCUBE
1390 Willow Road
Menio Park, CA 94025

Cc: Andrew Serafini
Woodcock Washburn, LLP
999 Third Avenue, Suite 3600
Seattle, WA 98104-4038

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/664,697	09/16/2003	Cheng Li	4003.13

CONFIRMATION NO. 5503

OC000000020609495

Howard M. Peters
PETERS, VERNY, JONES & SCHMITT, L.L.P.
425 Sherman Avenue, Suite 6
Palo Alto, CA 94306

Date Mailed: 09/27/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/04/2006.

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

CHARLES SMOOT
OP (571) 272-3299

FORMER ATTORNEY/AGENT COPY

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1635 MARKET STREET
PHILADELPHIA PA 19103-2212

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OFFICE OF PETITIONS

In re Patent No. 6,841,777 :
Issued January 11, 2005 :
Application Number: 10/664,718 : DECISION ON PETITION
Filing Date: September 17, 2003 :
Attorney Docket Number: B1180/20019 :

This is a decision on the petition under 37 CFR 1.183 filed February 17, 2005 to issue the patent in the name of the assignee. The petition is treated under 37 CFR 3.81 (b)[1].

The petition is **DISMISSED**.

Assignment data printed on the patent is based solely on the information so supplied on the Issue Fee Transmittal Form (PTOL-85B). A review of the record indicates that the Issue Fee Transmittal Form (PTOL-85B) submitted December 2, 2004, incorrectly identified the assignee.

Effective June 25, 2004, when a request to issue a patent to an assignee is filed after payment of the issue fee, a certificate of correction must be submitted as there is no time to process these requests before a patent is issued. See 69 Fed. Reg. 29865 (May 26, 2004).

The instant petition was not submitted with a request for a certificate of correction. Therefore, this matter is being referred to the Office of Patent Publication for processing into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must:

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;
(B) provide a request for a certificate of correction §1.323;
(C) provide the fee set forth in 37 CFR §1.20 (a) and
(D) provide the processing fee set forth in 37 CFR §1.17(i)

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OFFICE OF PETITIONS

In re Patent No. 6,841,777 :
Issued January 11, 2005 :
Application Number: 10/664,718 : DECISION ON PETITION
Filing Date: September 17, 2003 :
Attorney Docket Number: B1180/20019 :

This is a decision on the request for reconsideration filed December 29, 2005, under 37 CFR 1.183, to issue the patent in the name of the assignee. The petition is treated under 37 CFR 3.81 (b)[1].

The petition is **GRANTED**.

Petitioner states that the correct assignee's name is Staib Instrumente GmbH, and that the failure to include the correct name of the assignee on the Fee(s) Transmittal form PTOL-85(b) was inadvertent. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct name of the assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

---

[1]Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must:

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;
(B) provide a request for a certificate of correction §1.323;
(C) provide the fee set forth in 37 CFR §1.20 (a) and
(D) provide the processing fee set forth in 37 CFR §1.17(i)

A petition under 37 CFR 1.183 was filed February 17, 2005 and dismissed in a decision mailed March 3, 2005 since the request was not accompanied by a certificate of correction.

Office assignment records however, reflect that Staib Instrumente GmbH 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.

Petitioner's deposit account no. 03-0075 was charged $130.00 with the submission of the petition on February 17, 2005, pursuant to 37 CFR 1.17(i) and has now been charged $100.00 for the certificate of correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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101 COLUMBIA DRIVE
P O BOX 2245 MAIL STOP AB/2B
MORRISTOWN, NJ 07962

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OFFICE OF PETITIONS

In re Application of
Amit Nayar, et al.
Application No. 10/664,730
Filed: September 18, 2003
Attorney Docket No. 105428-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 11, 2007.

The application became abandoned for failure to pay the issue fee on or before November 28, 2006. The issue/publication fees were paid on November 30, 2006. A Notice of Abandonment was mailed on December 28, 2006. In response, on January 11, 2007, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is GRANTED.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being forwarded 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

cc: MARYANN MAAS,
25 E ALGONQUIN RD
DES PLAINES, IL 60017

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JENNIFER S. SICKLER
1000 LOUISIANA
SUITE 3400
HOUSTON TX 77002

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JUN 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Smitherman et al. :
Application No. 10/664,737 : DECISION REFUSING STATUS
Filed: September 18, 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 127976-1000 :

This is in response to the petition under 37 CFR 1.47(a), filed April 28, 2004. Applicants obtained a one-month extension of time to reply. Accordingly, the petition is filed timely.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing 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 18, 2003, with a declaration without all of the inventors' signatures. Accordingly, on January 29,2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring the signatures of Tuy Vu Mai and Leo Peters III and a surcharge for the late filing of the declaration. Additionally, the Notice to File Missing Parts indicated that a new oath or declaration was required, which identified the residence of each inventor.

On January 29, 2004, the Office also mailed a Notice of Incomplete Reply, stating that the reply on October 20, 2003, to the Notice to File Missing Parts had been entered. However, the reply did not include the signature of Leo Peters III. Again, the Office indicated that a new oath or declaration was required, which identified the residence of each inventor.

In response, on April 28, 2004, applicants filed the present petition, a declaration signed by two of the three joint inventors, a request for a one-month extension of time to reply, and paid the necessary fees.

In the Declaration of Facts, R. Bradford Perry states that the assignee, through its attorney, sent Leo J. Peters III a letter dated September 26, 2003, enclosing a Declaration for execution. A copy of the letter accompanies the petition. The letter indicates: "Enclosed for your review and execution is a Declaration and Power of Attorney for the nonprovisional patent application." *Letter of Jennifer S. Sickler, dated September 26, 2003.* Mr. Perry further states that Mr. Peters indicated that he was not willing to sign declaration, and has failed to due so.

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. Applicants lack items (1) and (2) as set forth above.

As to item (1), it appears that Mr. Peters was presented with only a copy of the Declaration and Power of Attorney. Unless Mr. Peters was presented with a complete copy of the application papers, including the specification, claims and drawings, he could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration that he was given. Accordingly, applicants failed to show or provide proof that the nonsigning inventor has refused to sign the declaration. See MPEP 409.03(d). To show that the inventor has refused to join in the application, applicants must show that complete copies of the application papers, including the specification, claims and drawings, were presented to Mr. Peters, personally or through his designated representative, and that he did not respond to the request that he sign the declaration.

As to item (2), applicants failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64. The declaration does not identify the residence or mailing address of Mr. Peters. The Office notes that the oath or declaration must identify "[t]he mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor. . . ." 37 CFR 1.63(c)(1). Accordingly, to correct the deficiencies, applicants must submit an oath or declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity, the correct mailing address and citizenship of each inventor, and is signed by the two signing inventors on behalf of Mr. Peters, the nonsigning inventor.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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1000 LOUISIANA
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OFFICE OF PETITIONS

In re Application of :
Smitherman et al. :
Application No. 10/664,737 : DECISION ACCORDING STATUS
Filed: September 18, 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 127976-1000 :

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 19, 2004.

Petitioner has shown that Leo J. Peters III, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Jennifer S. Sickler establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

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

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

The matter is being referred to Technology Center AU 3661 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

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HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY CA 94019

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OFFICE OF PETITIONS

In re Patent No. 6,960,813 :
Issue Date: November 01, 2005 :
Application No. 10/664,755 : NOTICE UNDER 37 CFR. 1.28(c)
Filed: September 17, 2003 :
Attorney Docket No. NWAV 1002-2 :

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

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

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

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

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

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LUEDEKA NEELY & GRAHAM PC
P O BOX 1871
KNOXVILLE, TN 37901

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OFFICE OF PETITIONS

In re Application of :
HARRIS, Terry L. :DECISION GRANTING PETITION
Application No. 10/664,760 :UNDER 37 CFR 1.137(b)
Filed: September 17, 2003 :
Attorney Docket No. 56423.P1 :

This is a decision on the petition, filed October 31, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on September 17, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the USPTO of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 24, 2006, has been mailed under separate cover.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on May 18, 2005. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, in view of the rescinding of the nonpublication request, a Notice of Publication Fee Due is being mailed under separate cover. Petitioner should note that payment of the publication fee is required to be filed within the period set forth in the Notice to avoid abandonment of the application.

This application is being referred to Technology Center AU 3671 for taking such action as necessary on the amendment filed June 28, 2005. Afterwards, the application will be returned to Publishing Division to await receipt of the $300 publication fee due as required by the Notice of Publication Fee Due mailed May 17, 2006.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Lisa H. NEUBERGER, et al. :
Application No. 10/664,797 : DECISION GRANTING PETITION
Filed: September 16, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **12587-038001 / 01476-00/U** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 7, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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 documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 3624 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.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **JEREMY J. MONALDO**
FISH & RICHARDSON, PC.
1425 K STREET NW, 11TH FLOOR
WASHINGTON, DC 20005-3500

---

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/664,824	09/17/2003	2662	1198	BP2610	5	27	5

CONFIRMATION NO. 3426

34399
GARLICK HARRISON & MARKISON LLP
P.O. BOX 160727
AUSTIN, TX 78716-0727

CORRECTED FILING RECEIPT

OC000000017628042

Date Mailed: 12/09/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Stephen Palm, Irvine, CA;

Power of Attorney: The patent practitioners associated with Customer Number **34399**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/411,335 09/17/2002

Foreign Applications

If Required, Foreign Filing License Granted: 12/11/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/664,824

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Long range handshaking communication system for multiple xDSL

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

GROSSMAN TUCKER PERREAULT & PFLEGER
55 SOUTH COMMERCIAL ST
MANCHESTER NH 03101

COPY MAILED

MAR 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Richard L. Leland and Gary Fussell	:	
Application No. 10/664,829	:	DECISION REFUSING
Filing Date: September 17, 2003	:	STATUS UNDER § 1.47(a)
Attorney Docket No. TRM011U	:	

This is in response to the "PETITION UNDER 37 CFR 1.47(a)", filed July 12, 2004.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 17, 2003, without an oath or declaration. Accordingly, on December 16, 2003, the Office of Initial Patent Examination mailed a Notice to File Missing Parts, requiring a oath or

declaration, and a surcharge for its late filing.[1] In response, applicants filed the instant petition on July 12, 2004, made timely by obtaining a five month extension of time. Accompanying the petition was a declaration executed by Leland, but with the signature block for Fussell left blank.

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 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirements (2) and (4).

With regards to requirement (2), the declaration does not contain the mailing address and residence of inventor Fussell as required by 37 CFR 1.63(c)(1).

With regards to requirement (4), Rule 47 applicant has not included the required statement of Fussell's last known address.

The petition fee of $130 has been charged to Deposit Account No. 50-2121, as authorized.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] The Notice also required replacement drawings. Applicants have filed drawings with the petition.

UNITED STATES PATENT AND TRADEMARK OFFICE

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GROSSMAN TUCKER PERREAULT & PFLEGER
55 SOUTH COMMERCIAL ST
MANCHESTER NH 03101

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NOV 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Richard L. Leland and Gary Fussell	:	
Application No. 10/664,829	:	DECISION ACCORDING
Filing Date: September 17, 2003	:	STATUS UNDER § 1.47(a)
Attorney Docket No. TRM011U	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(a)", filed September 19, 2005.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on September 17, 2003, without an oath or declaration. Accordingly, on December 16, 2003, the Office of Initial Patent Examination mailed a Notice to File Missing Parts, requiring a oath or declaration, and a surcharge for its late filing.[1] In response, applicants filed a petition under 37 CFR 1.47(a) on July 12, 2004, made timely by obtaining a five month extension of time. Accompanying the petition was a declaration executed by Leland, but with the signature block for Fussell left blank. However, the petition was dismissed in a decision mailed on March 18, 2005. Petitioner did not provide a declaration in compliance with 37 CFR 1.63(c)(1) (the declaration did not contain the mailing address and residence of inventor Fussell). In addition, petitioner did not provide a statement of the last known address of Fussell.

[1] The Notice also required replacement drawings. Applicants filed drawings with the petition.

With the instant petition, petitioner has overcome the objections set forth in the decision mailed March 18, 2005. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 3616 for examination in due course.

Telephone inquiries concerning 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

GARY FUSSELL
1200 CAVALIER BLVD
CHESAPEAKE VA 23323

COPY MAILED

NOV 14 2005

OFFICE OF PETITIONS

In re Application of :
Richard L. Leland and Gary Fussell :
Application No. 10/664,829 :
Filed: September 17, 2003 :
Title: Ultrasonic Blade Design for Scoring Double Angle Groove and Products Therefrom :

LETTER

Dear Mr. Fussell:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Steven J. Grossman
Grossman, Tucker, Perreault & Pfleger, PLLC
55 South Commercial St
Manchester NH 03101

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 01-06

Paper No: __

BAUSCH & LOMB INCORPORATED
ONE BAUSCH & LOMB PLACE
ROCHESTER NY 14604-2701

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JAN 2 4 2006

OFFICE OF PETITIONS

In re Application of :
Perkins, et al. :
Application No. 10/664,837 : ON PETITION
Filed: 17 September, 2003 :
Attorney Docket No. P03320 :

This is a decision on the petition filed on 24 Marhc, 2004, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and 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 "Petition under 37 C.F.R. §1.47";

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

BACKGROUND

The record indicates:

- the instant application was filed on 17 September, 2003, without, *inter alia*, a fully executed oath/declaration;

- on 12 December, 2003, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 24 March, 2004, Petitioner Michael L. Smith (Reg. No. 35,685) filed (with a request and fee for extension of time), *inter alia*, the instant petition, an oath/declaration signed by co-inventor James T. Perkins for himself and on behalf of non-signing co-inventor Paul J. Ferreira, and a statement of Petitioner that indicates that only the oath/declaration and not the entire application (description, claims, abstract and drawings) was sent to non-signing co-inventor Paul J. Ferreira;

- moreover, Petitioner will need to make a showing as to a diligent effort to ensure the currency of the last known residential address set forth for the non-signing inventor.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

> (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, 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, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.
>
> REFUSAL TO JOIN
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not

been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

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.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

CONCLUSION

The record as it stands is incomplete as to the copy of the referenced transmittal letter (to support and evidence transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor at current/valid (or at least last-known/ascertainable) addresses. The evidence of these requirements should be submitted with any renewed petition.

Out of an abundance of caution and because, *inter alia*, a property right is in question, Petitioner is requested to submit a copy of the transmittal letter with a renewed petition.

Therefore, the instant petition hereby is **dismissed**.

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

---

[1] See: MPEP 409.03(b).

[2] 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[3]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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

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

[3] 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

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United States Patent and Trademark Office
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Paper No: __

BAUSCH & LOMB INCORPORATED
ONE BAUSCH & LOMB PLACE
ROCHESTER NY 14604-2701

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MAR 30 2006
OFFICE OF PETITIONS

In re Application of :
Perkins, et al. :
Application No. 10/664,837 : ON PETITION
Filed: 17 September, 2003 :
Attorney Docket No. P03320 :

This is a decision on the petition filed on 6 February, 2006, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 17 September, 2003, without, *inter alia*, a fully executed oath/declaration;

- on 12 December, 2003, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- the 24 March, 2004, petition (submitted, *inter alia*, an oath/declaration signed by co-inventor James T. Perkins for himself and on behalf of non-signing co-inventor Paul J. Ferreira) was dismissed on 24 January, 2006, because Petitioner Michael L. Smith (Reg. No. 35,685) evidenced that only the oath/declaration and not the entire application (description, claims, abstract and drawings) was sent to non-signing co-inventor Paul J. Ferreira, and provided no showing of a diligent effort to ensure the currency of the last known residential address set forth for the non-signing inventor;

- the instant petition appears to cure those deficiencies.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

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

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No: __

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MAR 3 0 2006

OFFICE OF PETITIONS

PAUL J. FERREIRA
15 IDLEWOOD PLACE
STAMFORD, CT 06905

In re Application of :
Perkins, et al. :
Application No. 10/664,837 : COMMUNICATION
Filed: 17 September, 2003 :
Attorney Docket No. P03320 :

Dear Paul J. Ferreira:

You are named as 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,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application,

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

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, 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.

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 toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this letter may be directed to the undersigned at (571) 272-3214.

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

Counsel of Record:
BAUSCH & LOMB INCORPORATED
ONE BAUSCH & LOMB PLACE
ROCHESTER NY 14604-2701

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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SNELL & WILMER
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX AZ 85004-0001

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SEP 14 2004

OFFICE OF PETITIONS

In re Application of
Clarot, et al.
Application No. 10/664,839
Filed: 16 September, 2003
Attorney Docket No. 33205.1900

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 10 May, 2004.

The petition is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and 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 "Petition under 37 C.F.R. §1.47";

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

BACKGROUND

The record indicates:

- the application was filed on 16 September, 2003, without, *inter alia*, a fully executed oath or declaration; and

- on 5 December, 2003, the Office mailed a Notice to File Missing Parts with a reply due absent extension of time on or before 5 February, 2004;

- on 10 May, 2004 (over a 5 May, 2004, certificate of mailing), Petitioner filed, *inter alia* (a request and fee for a three- (3-) month extension) an oath/declaration signed by named inventor Tim Clarot, but without the signature of Charles Hensley (Mr. Hensley), a petition under 37 C.F.R. §1.47, and narrative by Petitioner Wendy S. Neal (Reg. No. 45,615) and Kelley A. Rasmussen of Matrixx Initiatives, however, while the statement suggests that a copy of the application may have been provided to Mr. Hensley, it does not appear from the transmittal that the entire application was sent to Mr. Hensley as required by statute and regulation.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
>
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

Thus, a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application--and evidence of that transmittal submitted.

And a reasonable effort must be made to ascertain a current or last known address.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1]

CONCLUSION

The materials submitted thus far do not clearly evidence that the entire application was sent to the alleged non-signing inventor after a reasonable effort is made to determine a current valid address for the non-signing inventor. Petitioner should submit a copy of the transmittal letter and should state the address in the petition over Petitioner's signature and registration number.

Therefore, the instant petition hereby is **dismissed**.

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

---

[1] See: MPEP 409.03(b).

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

By FAX: IFW Formal Filings
(703) 872-9306
(Effective 28 September, 2004: (571-273-0025)
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
220 20th Street S.
Arlington, VA 22202

Telephone inquiries regarding this decision should 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

JJGJR.: 01-05

Paper No: __

SNELL & WILMER
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX AZ 85004-0001

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FEB 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Clarot, et al. :
Application No. 10/664,839 : ON PETITION
Filed: 16 September, 2003 :
Attorney Docket No. 33205.1900 :

This is a decision on the renewed petition under ¶(a) of 37 C.F.R. §1.47, filed on 15 November, 2004.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 16 September, 2003, without, *inter alia*, a fully executed oath or declaration; and

- on 5 December, 2003, the Office mailed a Notice to File Missing Parts with a reply due absent extension of time on or before 5 February, 2004;

- the original petition was dismissed on 14 September, 2004, because it did not appear from the transmittal that the entire application was sent to Mr. Hensley as required by statute and regulation;

- Petitioner Wendy S. Neal (Reg. No. 45,615) now has filed, *inter alia* an oath/declaration signed by named inventor Tim Clarot, but without the signature of Charles Hensley (Mr. Hensley), a petition under 37 C.F.R. §1.47, and narrative by Petitioner and Kelley A. Rasmussen of Matrixx Initiatives, setting forth Mr. Hensley's last known address and evidencing diligence in the effort to present Mr. Hensley with the entire application but nonetheless his failure to sign the oath/declaration for filing.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

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

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at 703-305-9199.

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

OIPE JC24
DEC 10 2004
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Art Unit	Examiner:
Applicant:	George B. Narinsky
Serial No.:	10/664,846
Filed:	September 22, 2003
For:	**PROCESS AND APPARATUS FOR LNG ENRICHING IN METHANE**

- -

Pasadena, California
October 26, 2004

PETITION TO MAKE SPECIAL

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

Sir:

It is respectfully requested that the above application be made special, on the grounds that applicant's age is over 65, as shown by the accompanying Declaration. The petition fee is enclosed.

12/13/2004 CNGUYEN 00000053 10664846
01 FC:1464 130.00 OP

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

MAR - 9 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 15 2007

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON DC 20037-3213

In re Application of	:
Konrad Basler et al	:
Serial No.: 10/664,859	: PETITION DECISION
Filed: September 22, 2003	:
Attorney Docket No.: Q-77377	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed May 23, 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 except the statement in the specification. The statement will be added by Examiner's amendment as the application is otherwise in condition for allowance. 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, Washington, D.C. 20231, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

John LeGuyader
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

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

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of :
Reddy et al. :
Application No. 10/664,861 :
Filed: September 22, 2003 :
Attorney Docket No. AVR-100 :

DECISION ON PETITION AND
REQUEST FOR CORRECTED
FILING RECEIPT

This is a decision on the petition filed April 15, 2005, which is being treated as a petition under 37 CFR 1.181, requesting a corrected filing receipt to reflect the claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional Applications, No. 60/411,989, filed September 19, 2002, and No. 60/411,994, filed September 19, 2002.

A review of the record indicates that the specification submitted on September 22, 2003, contained a reference to the prior-filed provisional applications as required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i). Furthermore, applicants submitted this reference during the pendency of the above-identified application and within the period specified in 37 CFR 1.78(a)(5)(ii).

The Office notes: "When the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or on a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding business day which is not a Saturday, Sunday, or a Federal holiday." 37 CFR 1.7(a). In this instance, applicants filed the above-identified nonprovisional application on Monday, September 22, 2003, which was the next succeeding business day following the closure of the USPTO on Thursday, September 18, 2003, and Friday, September 19, 2003. The USPTO considered the closure a "Federal Holiday within the District of Columbia" under 35 U.S.C. § 21. *See* 1275 OG 142 (October 21, 2003). The USPTO further declared that any action due on Thursday, September 18, 2003, and Friday, September 19, 2003, [1] would be considered as timely for the purposes of 35 U.S.C.

[1] "With respect to claiming benefit under 35 U.S.C. 119(e) to provisional applications, effective November 29, 1999, Public Law 106-113 amended 35 U.S.C. 119(e)(2) to eliminate the copendency requirement for a nonprovisional application claiming benefit of a provisional application." MPEP 201.11(B). "However, pursuant to 35 U.S.C. 119(e)(1), the nonprovisional application must be filed not later than 12 months after the date on which the provisional application was filed." *Id.* "If the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the nonprovisional application may be filed on that next succeeding business day. See 35 U.S.C. 21(b), 37 CFR 1.7(b), and MPEP § 201.04(b) and § 505." *Id.*

§ 119, if the action was taken on the next succeeding business day on which the USPTO was open, *i.e.* Monday, September 22, 2003. *See* 1275 OG 142 (October 21, 2003). Unfortunately, due to an oversight, the USPTO did not note the claim for priority to the prior-filed provisional Applications, No. 60/411,989 and No. 60/411,994. Accordingly, the petition is **granted**.

A corrected filing receipt, reflecting the claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional Applications, No. 60/411,989, filed September 19, 2002, and No. 60/411,994, filed September 19, 2002, accompanies this decision.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

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JUL 10 2007

OFFICE OF PETITIONS

In re Patent No. 7,147,941 :
Issued: December 12, 2006 :
Application No. 10/664,870 : ON PETITION
Filed: September 22, 2003 :
Attorney Docket Number: 1021.39339VX1 :

This is a decision on the petition, filed February 20, 2007, to correct the assignee's name on the front of the Patent, which is being treated under 37 CFR 3.81(b)[1].

The petition is **GRANTED**.

Petitioner states that the name of the assignee was incorrectly noted on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct name of the assignee, HITACHI GLOBAL STORAGE TECHNOLOGIES JAPAN, LTD., 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.

Office assignment records however, reflect that HITACHI GLOBAL STORAGE TECHNOLOGIES JAPAN, LTD., is the assignee of record. Accordingly, as the request

---

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

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
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

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED

MAR 23 2006

TECHNOLOGY CENTER 2100

In re Application of:
K. SHIGA, et al.
Application No. 10/664,891
Filed: September 22, 2003
For: STORAGE NETWORK MANAGEMENT SYSTEM AND METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petitions, filed on 20 April 2005 and 19 September 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submissions of 20 April 2005 and 19 September 2005 meet all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BERKELEY LAW & TECHNOLOGY GROUP, LLP
17933 NW EVERGREEN PARKWAY, SUITE 250
BEAVERTON OR 97006

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JUN 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Huang et al. :
Application No. 10/664,936 :
Filed: 09-22-2003 :
Attorney Docket No. 112.P14287 :

DECISION ON PETITION

This is a decision on the petition, filed March 19, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on September 20, 2006, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on December 21, 2006. A Notice of Abandonment was mailed on January 17, 2007.

Petitioner has met the requirements under 37 CFR 1.137(b). Accordingly, the petition is **granted.**

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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EPSTEIN & GERKEN
SUITE 340
1901 RESEARCH BOULEVARD
ROCKVILLE MD 20850

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JUN 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Stephen M. Dubovsky :
Application No. 10/664,940 : ON PETITION
Filed: September 22, 2003 :
Attorney Docket No. 1345.101.US :

This is a decision on the petition under 37 CFR 1.137(b), filed January 25, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

Petitioner submitted a total of $685 for the issue fee. However, as of December 8, 2004, the current fee at the small entity rate is $700. Therefore, a total of $15 ($700-$685) is required.

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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EPSTEIN & GERKEN
SUITE 340
1901 RESEARCH BOULEVARD
ROCKVILLE MD 20850

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Stephen M. Dubovsky :
Application No. 10/664,940 : ON PETITION
Filed: September 22, 2003 :
Attorney Docket No. 1345.100-US :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed October 18, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 19, 2005.

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

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)
6949843	2005-09-27	10664940	2003-09-22	1345.101.US

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/karen m gerken/	Date (YYYY-MM-DD)	2009-11-10
Name	Karen M. Gerken	Registration Number	31161

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

Privacy Act Statement

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

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

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

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

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

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6949843
Issue Date: September 27,2005
Application No. 10664940
Filed: September 22,2003
Attorney Docket No. 1345.100-US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 10,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 10,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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MAR 07 2006

OFFICE OF PETITIONS

Applicant: Lezer
Appl. No.: 10/665,007
Filing Date: September 22, 2003
Title: COSMETIC COMPOSITION COMPRISING RIGID FIBRES AND AT LEAST ONE COMPOUND CHOSEN FROM FILM-FORMING POLYMERS AND WAXES
Attorney Docket No.: 05725.1238-00
Pub. No.: US 2005/0065046 A2
Pub. Date: March 24, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on May 24, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON, DC 20004-1206

Mail Date: 04/20/2010

Applicant	: William Waycott	: DECISION ON REQUEST FOR
Patent Number	: 7563952	: RECALCULATION of PATENT
Issue Date	: 07/21/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/665,029	: OF WYETH
Filed	: 09/16/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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OFFICE OF PETITIONS

In re Application of :
Gupta et al. :
Application No. 10/665,033 : ON APPLICATION FOR
Filed: September 18, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 088245-7212 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed April 30, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand five hundred fifty (1550) days, not one thousand one hundred twenty-nine (1129) 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 patentees are 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, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). This fee is required and will not be refunded.

---

[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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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OFFICE OF PETITIONS

In re Application of :

CHANG, et al. :

Application No. 10/665,055 : DECISION ON PETITION
Filed: September 16, 2003 : TO WITHDRAW
Attorney Docket No. GLYO-P02-007 : 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 Halstead on behalf of all attorneys of record who are associated with customer No. 28120. All attorneys/agents associated with the Customer Number 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 an outstanding Office action mailed October 19, 2006 that requires a reply from the applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **Yan Chang**
71 Winter Street
Ashland, MA 01721

cc: **Mark G. DeGiacomo**
Murtha Cullina LLP
99 High Street, 20th Floor
Boston, MA 02110

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/665,055	09/16/2003	Yan Chang	GLYO-P02-007

CONFIRMATION NO. 5479

OC000000021038802

28120
FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

Date Mailed: 10/31/2006

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.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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caj

Mailed: 6-12-07

In re application of :
Takanori Kamoto et al. : DECISION ON
Serial No. 10/665,088 : PETITION
Filed: September 22, 2003 :
For: INK COMPOSITION, RECORDING METHOD AND RECORDED IMAGE UTILIZING THE SAME, INK SET AND INK HEAD

This is a decision on the PETITION UNDER 37 CFR 1.181 received December 18, 2006.

On March 29, 2005, a restriction requirement was made by the examiner. Applicants responded to the requirement on April 7, 2005 and elected Group I claims with traverse. The examiner noted applicant's election and issued a non-final office action, indicating the claims were now constructively elected by original presentation.

Applicants filed the instant petition on December 18, 2006, along with a reply to the outstanding office action. Applicant argues that the examiner's basis for withdrawing the claims, i.e. non-elected by original presentation is not understood.

DECISION

Section 818.03 of the MPEP states in part:

818.03(c) Must Traverse To Preserve Right of Petition
37 CFR 1.144. Petition from requirement for restriction.
After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

As stated by 818.03(c), "After a *final* requirement for restriction", the applicant may petition the Commissioner to review the requirement (emphasis added). In the instant case, the examiner has not yet responded to the request for reconsideration of the restriction requirement and the examiner never made the requirement final. Therefore, any petition for reconsideration of the restriction requirement is premature.

Accordingly, because the instant petition is premature for the reasons given above, the petition for withdrawal of the restriction requirement is **DISMISSED.** The application is being forwarded to the

examiner for consideration of the response filed December 18, 2006. The examiner is directed to clarify the restriction requirement on the record and/or make the restriction requirement final.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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OFFICE OF PETITIONS

In re Application of :
John Barrus et al. :
Application No. 10/665,097 : DECISION GRANTING PETITION
Filed: September 16, 2003 :
Attorney Docket No: 20412-07972 :

This is a decision on the petition, filed July 17, 2006, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on March 31, 2005. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. The projected publication date is November 23, 2006 and a copy of the communication regarding rescission is included herein.

The petition fee in the amount of $1500.00 has been applied to the finance records for this application.

This matter is being referred to Technology Center 2176 for further examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MORRISON & FOERSTER, LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304

In re Application of :
Dolores Shcendel, et al. :
Application No. 10/665,111 : DECISION ON PETITION
Filed: September 16, 2003 : TO WITHDRAW
Attorney Docket No. 559412000200 : 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 2, 2007.

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 November 27, 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: ARLES A. TAYLOR, JR.
JENKINS, WILSON, TAYLOR, HUNT, PA
UNIVERSITY TOWER, SUITE 1200
3100 TOWER BOULEVARD
DURHAM, NC 27707

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PO BOX 7037
ATLANTA GA 30357-0037

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In re Application of :
Manfred Jonsson :
Application No. 10/665,129 : ON PETITION
Filed: September 22, 2003 :
Attorney Docket No. S247 1370.1 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 16, 2008.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the Notice of Allowance mailed May 6, 2008. This Notice set a statutory period for reply of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on August 7, 2008. The Office mailed a Notice of Abandonment on August 29, 2008.

It is obvious from reviewing the file that the Office action was mailed to the incorrect address. The Office action should have been addressed to the address set forth in the Power of Attorney filed on January 23, 2008.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to Group Art Unit 3653 for mailing of a new Notice of Allowance, setting a new period for reply.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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Dickstein Shapiro Morin & Oshinsky LLP
41st Floor
1177 Avenue of the Americas
New York, NY 10036-2714

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
Michael F. Dunne, et al. : **TO MAKE SPECIAL**
Application No. 10/665,141 : **(ACCELERATED**
Filed: September 22, 2003 : **EXAMINATION)**
For: CREDIT MANAGEMENT FOR ELECTRONIC BROKERAGE SYSTEM

This is in response to the petition filed on November 12, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02, VIII have been met, the petition is **GRANTED**.

In satisfaction of item (B) above, the petitioner states, "Although the Examiner of the parent indicated that these claims belong to a single group, should it be determined that all claims presented are not directed to a single invention, the undersigned, acting for the Applicants, will make an election without traverse, following telephone restriction practice."

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/rwg: 11/15/04

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SUITE 800
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Patent No. 6,964,724 :
Issue Date: November 15, 2005 :
Application No. 10/665,148 : ON PETITION
Filed: September 22, 2003 :
Attorney Docket No. Q77313 :

This is a decision on the petition filed October 26, 2006, which is being treated as a petition 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 inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. 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.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: William Lin	: DECISION ON REQUEST FOR
Patent Number	: 7657832	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/665,156	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **579** 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 : March 23, 2007

TO SPE OF: ART UNIT 2826

SUBJECT: Request for Certificate of Correction for Appl. No.: 10/665177 Patent No.: 7,103,012

Please respond to this request for 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**.

Thank You For Your Assistance

Certificates of Correction Branch
703-308-9390 ext. _____

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 PTO did make a mistake. The IDS filed 8/18/06 did not comply with 37 CFR 1.97.

SUE PURVIS — **SPE**

7826 — **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

April 4, 2007

Patent No. : 7,130,012 B2
Ser. No. : 10/665177
Inventor(s) : Doi, et al.
Issued : October 31, 2006
Title : **LIQUID CRYSTAL DISPLAY DEVICE AND METHOD FOR FABRICATING THE SAME**
Docket No. :

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.

The Patent and Trademark office did make a mistake. The IDS filed 8/18/06 did not comply with 37 CFR 1.97.

In view of the foregoing, your request is hereby denied.

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

Patrick G. Burns
Suite 2500
300 South Wacker Drive
Chicago IL 60606

CBN/eme

UNITED STATES 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

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AUG 17 2006
OFFICE OF PETITIONS

In re Application of
Douglas Herman Grabenstetter et al. :
Application No. 10/665,180 : ON PETITION
Filed: September 18, 2003 :
Attorney Docket No. 2002P13749US01 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed May 2, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed September 27, 2005. A shortened statutory period of three months was set for replying Final Office Action. No extensions of time having been filed, the application became abandoned December 28, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

In response to the Final Office Action mailed September 27, 2005, petitioner has submitted

---

[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)).

a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

Additionally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision 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.

Finally, the fee set for a petition to revive is $1500 for a large entity, not $1300 as indicated in the petition. Since an authorization to charge petitioner's deposit account has been given, deposit account no. 19-2179 has been charged in the amount of $1500 for the petition, not $1300.

This matter is being referred to Technology Center 2125 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
Senior Petitions Attorney
Office of Petitions

cc:
WOOD PHILLIPS KATZ CLARK AND MORTIMER
CITIGROUP CENTER, SUITE 3800
500 W MADISON
CHICAGO, IL 60661-4592

OIPE JC86
JAN 13 2005
PATENT & TRADEMARK OFFICE

IFW

Attorney Docket No. NL020923

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent Application of: **Rodin Enne Bruinsma**	:	Group Art Unit:	**1761**
Serial No.: **10/665,196**	:	Examiner:	**Not yet assigned**
Filing Date: **September 18, 2003**	:	Attorney Docket:	**NL020923**
For: **APPARATUS FOR PREPARING COFFEE**	:	Date:	**January 10, 2005**

Mail Stop Petition
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 2/7/05

PETITION TO MAKE SPECIAL

This is a request under the provisions of 37 CFR 1.102 to make this application special because of actual infringement. The Commissioner is hereby authorized to charge the petition fee under 37 CFR 1.17(h) to Deposit Account No. 50-2061.

STATEMENT:

As a basis for the granting the above petition, the undersigned attorney alleges on information and belief that:

1) Salton, Inc. markets and distributes a pod filter system coffee preparation product under the registered trademark MELITTA, and model name ONE:ONE (hereinafter the MELITTA apparatus).

2) A rigid comparison of the MELITTA apparatus has been made with the claims of the application, as currently amended in a preliminary amendment filed herewith, and that it is my opinion that one or more claims are unquestionably infringed.

01/18/2005 TLUU11 00000019 502061 10665196
01 FC:1464 130.00 DA

UNITED STATES 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

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JUN 12 2009

OFFICE OF PETITIONS

In re Patent No. 7,368,750 :
Issue Date: May 6, 2008 :
Application No. 10/665,204 : ON PETITION
Filed: September 22, 2003 :
Attorney Docket No. 031188 :

This is a decision on the petition filed May 14, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's data (spelling of Yamanishi to Yamanashi) on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. 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.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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MAY 14 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTENTION: HONORABLE COMMISSIONER FOR PATENTS

In re the Patent of: **WANG, Gang, et al.** P.T.O. Confirmation No.: **5746**

Patent No. **7,368,750** Issued: **May 6, 2008**

For. **SEMICONDUCTOR LIGHT-RECEIVING DEVICE**

PETITION UNDER 37 CFR §1.183

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Mail Stop DAC

May 14, 2008

Sir:

It is requested that a Certificate of Correction be issued to correct the designation of the Assignee's city address in the above-identified patent.

This request is being made in order to correct item (73). It is incorrect in that the city of Assignee's address was incorrectly listed on the transmittal form PTOL-85 when paying the issue fee. Please correct the Assignee's address to read **–Yamanashi, Japan**-- as is shown in the assignment records, reel **014529**, frame 0967. It is respectfully submitted that no new matter has been added.

A proposed Certificate of Correction is submitted herewith. Please charge $230.00 ($100.00 fee for the Certificate of Correction and $130.00) fee for filing this Petition to our Deposit Account No. 01-2340.

Respectfully submitted,

KRATZ, QUINTOS & HANSON, LLP

James N. Baker, Reg. No. 40,899

for Mel R. Quintos
Attorney for Applicant
Reg. No. 31,898

05/15/2008 PCHORP 00000018 012340 10665284
01 FC:1051 130.00 DA

MRQ/JNB/ak

Atty. Docket No. **031188**
Suite 400
1420 K Street, N.W.
Washington, D.C. 20005
(202) 659-2930

23850
PATENT & TRADEMARK OFFICE

10/665204

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MAY 14 2008

Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

on **May 14, 2008**
Date

Signature

James N. Baker
Typed or printed name of person signing Certificate

40,899
Registration Number, if applicable

412-881-8450
Telephone Number

Total Pages including Certificate of Transmission **3**

Atty. Docket: **031188**
Serial No.: **10/665,204**

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 7,368,750
DATED : May 6, 2008
INVENTOR(S): Gang WANG, 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 face of the patent, please correct Item (73) to read as follows:

-- (73) Fujitsu Quantum Devices Limited,
Yamanashi, Japan --

MAILING ADDRESS OF SENDER:
KRATZ, QUINTOS & HANSON, LLP
1420 K Street, NW, Suite 400
Washington, DC 20005

Patent No.:7,368,750

05/16/2008 PCHOKP 00000018 012340 10565204
02 FC:1811 100.00 DA

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

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FEB 13 2007

OFFICE OF PETITIONS

In re Application of :
NORDSTROM :
Application No.: 10/665,222 : DECISION ON PETITION
Filing Date: September 17, 2003 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: 05127.00228 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 6, 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 final Office action mailed January 17, 2006, which set a three (3) month statutory period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on April 18, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed January 17, 2006 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 1734 for appropriate action on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATRICK G. BURNS, ESQ.
GREER, BURNS & CRAIN, LTD.
SUITE 2500
300 SOUTH WACKER DRIVE
CHICAGO IL 60606

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JUN 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Arihiro Takeda et al :
Application No. 10/665,224 : ON PETITION
Filed: September 18, 2003 :
Attorney Docket No. 1117.68335 :

This is a decision on the petition, filed June 2, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 6, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new N tice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2871 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES 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 : June 8, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Arihiro Takeda et al
Application No. :10/665,224
Filed :September 18, 2003

The above-identified application has been assigned Patent No. 7,061,563 and an issue date of June 13, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 13, 2006:

"All reference to Patent No. 7,061,563 to Arihiro Takeda et al of Japan for LIQUID CRYSTAL DISPLAY DEVICE AND LIQUID CRYSTAL ORIENTATION METHOD appearing in the Official Gazette of June 13, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 10/14/05

DATE : 10/06/2005

TO SPE OF : ART UNIT 3700 (3721)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,805,659

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 3-922
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Okay to claim to be entered as requested?

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved.** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Stephen F. Gerrity
Primary Examiner

SPE

3721
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH, SUITE 210
DUBLIN, OH 43017

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MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Arthur J. Epstein :
Application No. 10/665,253 : DECISION GRANTING PETITION
Filed: September 19, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. OSU1159-150B :

This is a decision on the petition, filed February 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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)
7075815	2006-07-11	10665253	2003-09-19	OSU1159-150B

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	/Michael R. Stonebrook/	Date (YYYY-MM-DD)	2010-07-14
Name	Michael R. Stonebrook	Registration Number	53851

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. 7075815
Issue Date: July 11,2006
Application No. 10665253
Filed: September 19,2003
Attorney Docket No. OSU1159-150B

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 14,2010 ,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 14,2010 . 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
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of :
WAGO, Koichi :
Application No. 10/665,275 : DECISION ON PETITION
Filed: September 22, 2003 : TO WITHDRAW
Attorney Docket No. 146712004300 : 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 30, 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 Peter J. Davis, the sole attorney of record. Peter J. Davis has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed May 24, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: KOICHI WAGO
801 IRIS AVENUE
SUNNYVALE CA 94086

cc: DARBY & DARBY PC
1500 K STREET NW, SUITE 250
WASHINGTON, DC 20005-1714

UNITED STATES 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: 8-31-07

Re application of:
Koichi Wago
Serial No.: 10/665,275
Filed: September 22, 2003
For: Rotary Apertured Interferometric Lithography (RAIL)

DECISION ON
PETITION

This is a decision on the PETITION TO ACCEPT COLOR DRAWINGS (37 C.F.R. 1.84(a)(2)), filed May 3, 2007. Requirements for the granting of this petition include the following: (1) the fee as required by 37 CFR 1.17(h), (2) three sets of the color drawings, (3) an amendment to the specification which includes the language set forth in 37 CFR 1.84(a)(2)(iii), and (4) an explanation stating why color drawings are necessary.

Petitioner has paid the fee and submitted three sets of the color drawing. The examiner has made the appropriate amendment to the specification in his Examiner's Amendment. It is noted that the examiner requested the color drawings so it is readily apparent from the file wrapper that the examiners request was why the color drawings were necessary.

A review of the application record indicates that all of the requirements for acceptance of color photographs have been met.

The Petition is **GRANTED**.

Mark F. Huff
Supervisory Patent Examiner
Group Art Unit 1756

Koichi Wago
801 Iris Avenue
Sunnyvale, CA 94086

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 16, 2008

TO SPE OF : ART UNIT 2871

SUBJECT : Request for Certificate of Correction for Appl. No /10/665280 patent no7319501

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: _____

_____

_____

_____

_____

_____ 2871

SPE **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.
10/665,330	09/19/2003	Kosaraju Krishna Mohan	54821.D1	6252

1726 7590 11/09/2007

INTERNATIONAL PAPER COMPANY
6285 TRI-RIDGE BOULEVARD
LOVELAND, OH 45140

EXAMINER	
FORTUNA, JOSE A	

ART UNIT	PAPER NUMBER
1731	

MAIL DATE	DELIVERY MODE
11/09/2007	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

wk

Mailed: 11-9-07

In re application of	:	
Mohan K. et al.	:	DECISION ON
Serial No. 10/665,330	:	PETITION
Filed: September 19, 2003	:	
For: Low Density Paperboard Articles	:	

This is a response to the PETITION UNDER RULE 37 C.F.R. 1.181(a) TO PROVIDE APPLICANTS WITH A COPY OF A PTO-1449 that bears the Examiner's initials, signature and date acknowledging the receipt and consideration of the references filed on an IDS on April 19, 2007.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

The Petition is **GRANTED**.

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

Thomas W. Barnes III
INTERNATIONAL PAPER COMPANY
6285 TRI-RIDGE BOULEVARD
LOVELAND OH 45140

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

FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

Mail Date: 04/26/2010

Applicant	: Peter Hamilton	: DECISION ON REQUEST FOR
Patent Number	: 7635372	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/665,332	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1531** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAIL

MAY 05 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re Application of
Robert W. Fransdonk
Application No. 10/665,333
Filed: September 18, 2003

For: **METHOD AND SYSTEM TO MONITOR DELIVERY OF CONTENT TO A CONTENT DESTINATION**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on October 18, 2004.

A grantable request to withdraw, as agent of record must:
(1) Indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) Be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) Be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) Indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc:

Andre L. Marais
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
121 South Eighth Street
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

ESCO CORPORATION
2141 NW 25TH AVENUE
PO BOX 10123
PORTLAND, OR 97210

COPY MAILED

FEB 16 2006

OFFICE OF PETITIONS

In re Application of :
Robert K. Emrich :
Application No. 10/665,358 : ON PETITION
Filed: September 22, 2003 :
Attorney Docket No. 10665051291.00189

This is a decision on the petition, filed February 7, 2006 and supplemented on February 14, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 13, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3671 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement and Amendment.

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

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

DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

Mail Date: 04/21/2010

Applicant	: Se-Jin Lee	: DECISION ON REQUEST FOR
Patent Number	: 7572599	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/665,374	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **675** 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.:20100607

DATE : June 07, 2010

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.: 7,572,599

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:

/ANDREW WANG/
Supervisory Patent Examiner.Art Unit 1652

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI
600 CONGRESS AVENUE
SUITE 2400
AUSTIN TX 78701

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AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of :
William J. Welsh et al :
Application No. 10/665,377 : ON PETITION
Filed: September 18, 2003 :
Attorney Docket No. UVMO:021US :

This is a decision on the petition, filed August 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 May 31, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1625 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 OF PATENTS

February 14, 2005

R. Joseph Trojan
Trojan Law Offices
9250 Wilshire Blvd
Suite 325
Beverely Hills, Ca 90212

In re Application of:
Gary M. Zelman
Serial No: 10/665,400 On Petition
Filing Date: September 20, 2003
For: **EYEWEAR HAVING BOTH A PRIMARY LENS FRAME AND AN AUXILIARY LENS FRAME SEPARATELY COUPLED TO AN EYEWEAR PLATFORM**

In response to the petitions received November 23, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed November 24, 2003. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned January 27, 2004.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts of Nonprovisional Application Papers on December 23, 2003.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

The application has been completed with the documents received November 23, 2004 for release to Technology 2873.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

SEP 15 2004

Technology Center 2100

Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of: Purnell
Application No. 10/665,419
Filed: September 22, 2003
For: METHODS AND SYSTEMS FOR IDENTITY MANAGEMENT

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) AND M.P.E.P.§708.02(XI)

This is a decision on the petition to make special filed October 31, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

The petition is **DISMISSED**.

M.P.E.P. §708.02(XI), which sets forth the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention is generally directed to an identity management system and process to authenticate the identity of an individual. The specification is directed to a system and method for processing and handling of enrollment, authentication, and subsequent verification of the identity of passengers and employees in the transportation industry.

Petitioner does not establish a sufficient nexus between the disclosed and claimed invention and preventing "violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State" or activities "that would be a criminal violation if committed within the jurisdiction of the United States or of any State", or preventing acts that appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by assassination or kidnapping.

In addition, the petition lacks a statement explaining how the invention contributes to countering terrorism.

As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Accordingly, the petition is **DISMISSED**. The application will be returned to the examiner's docket to await examination in its proper turn based on its effective filing date.

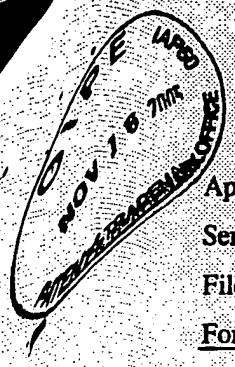
Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

It is suggested that Applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

9/9/04

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0885

11-17-05



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael R. Levine — Attorney Docket: LVN-09002/03

Serial No.: 10/665,457 — Group Art Unit: 1764

Filed: September 19, 2003 — Examiner: ----------

For: DESALINIZATION STILL

PETITION TO MAKE SPECIAL
BECAUSE OF APPLICANT'S AGE

Mail Stop
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby petitions to make this application special because Applicant is over 65 years of age. Applicant's declaration in support of this petition is attached hereto. No fee is required with this petition, in accordance with 37 CFR Section 1.102(c).

Respectfully submitted,

Allen M. Krass, Reg. No. 18,277
Attorney for Applicant
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
2701 Troy Center Drive Suite 330
Troy, MI 48007-7021
(248) 647-6000

AMK/jrb

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail # ~~EV734434606US~~ in an envelope addressed to Mail Stop, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on 11-16-2005, 2005.

Jennifer Baranowski

PETITION GRANTED

William Krynski
Special Program Examiner
TC1700

DEC 7 2005

//EV734434671US

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jack Q. Lever, Jr.
McDermott, Will & Emery
600 Thirteenth Street, NW
Washington, DC 20005-3096

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NOV 23 2004

OFFICE OF PETITIONS

In re Application of :
Toshikazu Onishi : DECISION GRANTING PETITION
Application No. 10/665,469 :
Filed: September 22, 2003 :
Attorney Docket No. 60188-660 :

This is a decision on the petition under 37 CFR 1.53(e), filed September 20, 2004, requesting that the above-identified application be accorded a filing date of September 22, 2003.

On September 22, 2003, applicant deposited the above-identified application. On July 21, 2004, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application," indicating that the specification did not include at least one claim, and stating that the filing date would be the date of receipt of a complete specification. Additionally, the Notice stated that pages 18-32 of the specification appeared to have been omitted.

In response, on September 20, 2004, applicant filed the present petition and a copy of 13 pages of specification (pages 18-30), 3 pages of claims (pages 31-33) and 1 page of abstract (page 34). Additionally, applicant submitted a copy of a date-stamped postcard receipt, acknowledging receipt of 30 pages of specification, 3 pages of claims and 1 page of abstract on September 22, 2003.

Upon review of the record, pages 18-30 of the specification, pages 31-33 of claims and page 34 of the abstract have not been located among the application papers. However, the evidence is convincing that the application papers deposited on September 22, 2003, included pages 18-30 of the specification, pages 31-33 of claims and

page 34 of the abstract, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including pages 18-30 of the specification, pages 31-33 of claims and page 34 of the abstract, was complete on filing and will be granted a filing date of September 22, 2003.

Accordingly, the petition is granted. The Notice of Incomplete was sent in error and is hereby vacated. The $130.00 petition fee is unnecessary and will be refunded to Deposit Account No. 50-0417.

The Office of Initial Patent Examination is directed to process the above-identified application with a **filing date of September 22, 2003**, using the pages 1-17 and 33 of the specification filed on September 22, 2003, and pages 18-30 of the specification, pages 31-33 of claims and page 34 of the abstract filed on September 20, 2004, and 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

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MAR 09 2007

OFFICE OF PETITIONS

VENABLE LLP
P.O. BOX 34385
WASHINTON DC 20043-9998

In re Application of :
Hideomi Koinuma et al :
Application No. 10/665,524 : ON PETITION
Filed: September 22, 2003 :
Attorney Docket No. 32307-191598 :

This is a decision on the petition, filed March 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 January 8, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2826 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE: G. Barron Jr.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/6/07

TO SPE OF : ART UNIT 2132

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/665,535 Patent No.: 7162632

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

GILBERTO BARRON JR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2132
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

McGinn Intellectual Property Law Group, PLLC
8321 Old Courthouse Road
Suite 200
Vienna, VA 22182-3817

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Louis R. Degenaro et al.	:	
Application No. 10/665,564	:	DECISION ON PETITION
Filed: September 22, 2003	:	
Attorney Docket No. YOR920030126US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 19, 2006, 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 41.37(b). As no claim was allowed, the application became abandoned on February 20, 2007. See MPEP 1215.04. A Notice of Abandonment was mailed on August 23, 2007.

As authorized the petition fee of $1,500 was charged to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief, with the fee of $500, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2165 for appropriate action in the normal course of business on the Appeal Brief received September 24, 2007.

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

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NOV 18 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Dickstein, Shapiro, Morin & Oshinsky, LLP
41st Floor
1177 Avenue of the Americas
New York, NY 10036-2714

In re application of : **DECISION ON PETITION**
Michael Togher et al. : **TO MAKE SPECIAL**
Application No. 10/665,570 : **(ACCELERATED**
Filed: September 22, 2003 : **EXAMINATION)**
For: CREDIT MANAGEMENT FOR ELECTRONIC BROKERAGE SYSTEM

This is in response to the petition filed on November 12, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/snm: 11/15/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 24, 2006

TO SPE OF : ART UNIT 3694

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/665570 Patent No.: 6996541 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: _____

_____

_____

_____

_____

_____ 3694

SPE **Art Unit**

Docket No.: E3331.0587
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Michael Togher et al.

Patent No.: 6,996,541

Issued: February 7, 2006

For: CREDIT MANAGEMENT FOR
ELECTRONIC BROKERAGE SYSTEM

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.323

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Upon reviewing the above-identified patent, Patentee noted two minor editorial errors which should be corrected.

In the Claims:

In Claim 1, at Col. 16, line 15, change "said trader accepting said best bid." to read: --said trader accepting said composite quote.--

In Claim 3, at Col. 16, line 27, change "said best quote" to read --said composite quote--.

Please charge our Credit Card in the amount of $100.00 covering the fee set forth in 37 CFR 1.20(a). Credit Card Payment Form SB-2038, with a signature from an authorized cardholder, is enclosed.

The errors now sought to be corrected are inadvertent minor clerical errors the correction of which does not involve new matter or require reexamination. With regard to the correction of claim 1, it is believed obvious in view of the file that in the last sub-paragraph of claim 1 "said best bid" should have been changed to "said composite quote" as the occurrence of "best bid" in the first sub-paragraph of claim 1 as filed (which provided antecedent basis for "said best bid") was amended, over the course of two amendments, to read --composite quote--.

In particular, as filed, the first sub-paragraph, i.e., the displaying step, of claim 1 read, in relevant part, "displaying a best bid which can be accepted . . . ." while the second sub-paragraph read, "said trader accepting said best bid."

Over the course of the amendments dated February 8, 2005 and August 25, 2005, the term in question (i.e., "best bid") was changed, in the displaying step, to read "best quote" and then, finally to read "composite quote." However, corresponding changes were inadvertently not made to the second sub-paragraph. As a result, the error being corrected in this paper occurred.

With regard to the correction of claim 3, a new claim 4 (which eventually issued as claim 3), was introduced in the Amendment dated February 8, 2005. As introduced at that time, the claim recited, inter alia, "wherein said best quote is for a predetermined quantity of said item of value." However, when "best quote" was amended in the displaying step of claim 1 to read "composite quote," in the

amendment dated August 25, 2005, claim 3 was inadvertently not amended in a corresponding fashion, resulting in the error in claim 3 that is being corrected herein.

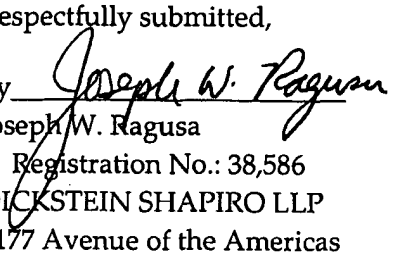
Since the corrections are clearly of a minor nature, and correct obvious mistakes, it is believed proper to correct the errors by Certificate of Correction.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-2215, under Order No. E3331.0587.

Dated: January 3, 2007

Respectfully submitted,

By 

Joseph W. Ragusa
Registration No.: 38,586
DICKSTEIN SHAPIRO LLP
1177 Avenue of the Americas
41st Floor
New York, New York 10036-2714
(212) 277-6500
Attorney for Applicant

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	6,996,541
APPLICATION NO.	:	10/665,570
ISSUE DATE	:	February 7, 2006
INVENTOR(S)	:	Michael Togher 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:

At Col. 16, line 15,

In Claim 1:

Change "said trader accepting said best bid." to -- said trader accepting said composite quote.--

At Col. 16, line 27,

In Claim 3:

Change "said best quote" to --said composite quote--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Joseph W. Ragusa
DICKSTEIN SHAPIRO LLP
1177 Avenue of the Americas
41st Floor
New York, New York 10036-2714

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON MA 02109

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Fernandez et al. :
Application No. 10/655,580 : DECISION ON PETITION
Filed: 19 September, 2003 :
Atty Docket No. 113794.138 US2 :

This is a decision on the petition filed on 16 September, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 10 May, 2005, for failure to timely file a response to non-final Office action mailed on 9 February, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 7 September, 2005.

The petition is accompanied by an amendment to the claims.

The address on the petition is different than the address in Office records. A courtesy copy of this decision will be mailed to the address listed on the petition. All future correspondence will be mailed solely to the address of record.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[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 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[3] The three-month extension request filed on 16 September, 2005, was submitted more than three (3) months after the end of the period for reply to the Office action mailed on 9 February, 2005, and therefore is unnecessary. The extension of time fee paid on 16 September, 2005, will be credited to counsel's deposit account, No. 03-3975, as authorized.

The application file is being referred to Technology Center Art Unit 2863 for further processing.

---

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

[3] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON MA 02109

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Fernandez et al.	:	CORRECTED
Application No. 10/665,580	:	DECISION ON PETITION
Filed: 19 September, 2003	:	
Atty Docket No. 113794.138 US2	:	

This is a corrected decision on the petition filed on 16 September, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 10 May, 2005, for failure to timely file a response to non-final Office action mailed on 9 February, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 7 September, 2005.

The petition is accompanied by an amendment to the claims.

The address on the petition is different than the address in Office records. A courtesy copy of this decision will be mailed to the address listed on the petition. All future correspondence will be mailed solely to the address of record.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[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 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[3] The three-month extension request filed on 16 September, 2005, was submitted more than three (3) months after the end of the period for reply to the Office action mailed on 9 February, 2005, and therefore is unnecessary. The extension of time fee paid on 16 September, 2005, will be credited to counsel's deposit account, No. 03-3975, as authorized.

The application file is being referred to Technology Center Art Unit 2863 for further processing.

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[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

[3] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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MAY 10 2007

OFFICE OF PETITIONS

In re Patent No. 7,087,983	:	
Tetsuya Itano, et al.	:	DECISION ON REQUEST
Issue Date: August 8, 2006	:	FOR RECONSIDERATION OF
Application No. 10/665,593	:	PATENT TERM ADJUSTMENT
Filed: September 22, 2003	:	and
Attorney Docket No. 03500.017568	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed October 10, 2006. Patentees request that the patent term adjustment indicated in the patent be corrected from one hundred and eight (108) days to one hundred twelve (112) 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 One hundred twelve (112) days.

On August 8, 2006, the above-identified application matured into U.S. Patent No. 7,087,983. The instant request for reconsideration, filed October 10, 2006 (a Tuesday after a Federal Holiday), 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 108 days.

Patentees dispute the reduction of 4 of the 120 days presently assessed against patentees due to the filing of a Miscellaneous Incoming Letter because patentees contend that the mailing of an Examiner Interview Summary ended the period of reduction.

On March 7, 2006, applicants filed an IDS after payment of the issue fee. On June 30, 2006, the examiner mailed an Interview Summary, which states that because no RCE was filed with the IDS on March 7, 2006, the IDS would not be considered but would be retained in the application file.

Patentees contend that they should be responsible for only 116 days of delay.

In pertinent part, 37 CFR 1.704 Reduction of period of adjustment of patent term states:

(c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> > (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
> >
> > (ii) Four months

Patentees' argument is well-taken. The June 30, 2006 Interview Summary, *under the facts and circumstances of this particular case*, is considered an "Office action" or "notice" in response to the paper filed after the Notice of Allowance was mailed. The period of adjustment should have been reduced by the number of days beginning on the date the IDS was filed and ending on the

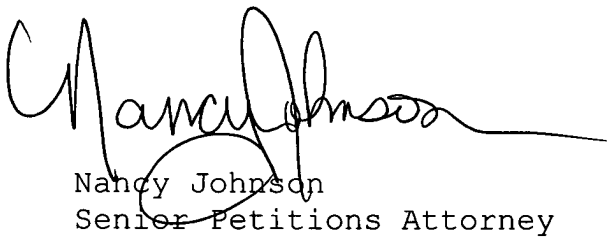
mailing date of the Interview Summary or 116 days, which is less than four months, or 120 days.

In view thereof, the patent term adjustment indicated in the patent should have been one hundred and twelve**(112)** days.

The fee under § 1.18(e) is required on petition under § 1.705(d) and will not be refunded. Nor will the fee be waived.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by ONE HUNDRED AND TWELVE(112) days.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,087,983 B1

DATED : August 8, 2006

DRAFT

INVENTOR(S) : Tetsuya Itano ; Fumihiro Inui ; Masanori Ogura

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 (108) days

Delete the phrase "by 108 days" and insert – by 112 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450Alexandria, VA 22313-1450
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

COPY MAILED

JAN 28 2005

OFFICE OF PETITIONS

In re Application of :
Douglas J. Kudney et al. :
Application No. 10/665,601 : DECISION REFUSING STATUS
Filed: September 22, 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 3156-0119P :

This decision is in response to the petition filed March 16, 2004, under 37 CFR 1.47(b), in response to the Notice to File Missing Parts "Notice" mailed December 16, 2003, which is treated under 37 CFR 1.47(a).

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 22, 2003, naming Douglas J. Kudney, Karen Breitbach and David H. Anderson as joint inventors, but without a signed declaration. Accordingly, on December 16, 2003, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the present petition, with a one month extension of time, was filed with an oath or declaration signed only by joint inventor Anderson. Petitioners seek status under 37 CFR 1.47(b) based on the fact that the declaration was sent to Mr. Kudney's and Ms. Breitbach's last known address and based on the fact that both Mr. Kudney and Ms. Breitbach verbally refused to sign the declaration, in spite of efforts to have the oath or declaration executed.

At the outset, petitioner is advised that if none of the named inventor(s) will sign the oath or declaration, a petition under 37 CFR 1.47(b) must be filed. If some of the named inventors signed the oath or declaration and one or more of the named inventors have not signed the declaration, a petition under 37 CFR 1.47(a) must be filed. In the instant case, three inventors have been named but the oath or declaration has only been executed by one of the inventors, thus, this petition will be treated under 37 CFR 1.47(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.

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 inventors. The declaration by Nancy Page regarding efforts to reach Mr. Kudney and Ms. Breitbach, reveals that the declaration was sent to them, but don't indicate that the complete application was ever sent to them. Thus, there is no evidence to show that the non-signing inventors 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 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 (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FALLS CHURCH VA 22040-0747

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of :
Douglas J. Cudney et al. :
Application No. 10/665,601 : DECISION REFUSING STATUS
Filed: September 22, 2003 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 3156-0119P :

This decision is in response to the request for reconsideration filed February 17, 2005, under 37 CFR 1.47(a), in response to the decision mailed January 28, 2005, dismissing the petition filed March 16, 2004. In view of the facts submitted with the request, the petition is treated under 37 CFR 1.47(b).

The petition is **DISMISSED.**

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. 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.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 22, 2003 as a continuation of parent application 09/335,897 and naming Douglas J. Cudney and Karen Breitbach as joint inventors. The oath or declaration submitted upon application was executed by David H. Anderson as the CEO of the assignee and on behalf of the non-signing inventors. Mr. Anderson's signature appeared in the space provided for a third named inventor and thus the office records have treated him as such. The decision mailed January 28, 2005 indicated that since some of the named inventors signed the oath or declaration and one or more of the named inventors had not signed the declaration, the petition needed to be treated under 37 CFR 1.47(a). Since inventorship was incorrectly stated but now clarified, there is no need to treat this petition as if any of the inventors had executed the oath or declaration. There is also no need for a separate petition to correct the inventorship since a proper oath or declaration has not been provided. Mr. Anderson will be removed from office records as an inventor.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the

oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

With respect to the remaining requirements under 37 CFR 1.47(b), however, the petition still lacks item (1) and now in light of the additional evidence submitted with the instant request for reconsideration, also lacks item (2).

Petitioners seek status under 37 CFR 1.47 based on the fact that the declaration was sent to Mr. Cudney's and Ms. Breitbach's last known address and based on the fact that both Mr. Cudney and Ms. Breitbach verbally refused to sign the declaration, in spite of efforts to have the oath or declaration executed.

In regards to item (1), petitioners have still not provided sufficient proof that a copy of the instant application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventors. As was indicated in the decision mailed January 28, 2005, dismissing the petition, the declaration by Nancy Page regarding efforts to reach Mr. Cudney and Ms. Breitbach, reveals that the declaration was sent to them, but doesn't indicate that the complete application was ever sent to them. Thus, there is still no evidence to show that the non-signing inventors had the benefit of reviewing the application. Petitioners have suggested that the fact that the joint inventors had reviewed the parent application, 09/335,897 filed June 18, 1999, was tantamount to them having reviewed the application in the instant application and thus credible evidence in support of their argument.

Likewise, in regards to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented.

The oath or declaration submitted by petitioners on March 16, 2004 is defective because, as indicated above, it is executed by David H. Anderson and lists him as a third inventor. The oath or declaration submitted with the instant request for reconsideration is the oath or declaration filed with the parent application. However, that oath or declaration is defective because Mr. Cudney's citizenship, post office and residence addresses were omitted and because Ms. Breitbach's post office address had been omitted. Petitioner offers an application data sheet ("ADS") to correct the post office and residence addresses for Mr. Cudney and Ms. Breitbach and argues that with the "ADS", the oath or declaration submitted together with the parent application satisfies the requirement under 37 CFR 1.63.

Petitioner's arguments have been considered but are not persuasive. The parent application is irrelevant in this instance since the oath or declaration in that matter was defective. Submission of the "ADS" by itself does not cure the defect. For your convenience, please refer to PTO form SB/01 which is a Declaration (37 CFR 1.63) for a Utility or Design Application when an Application Data Sheet (37 CFR 1.76) is used.

Since the oath or declaration from the parent application is not acceptable for purposes of satisfying requirement (2) it is also unacceptable in furtherance of requirement (1) and the argument that the non-signing inventors had reviewed the application of the parent and thus the application of the continuation application. If the oath or declaration in the parent application had not been defective, petitioners could have submitted the oath or declaration without the need for a petition under 37 CFR 1.47 as the reviewed and understood clause from the parent would have been imputed to the continuation application.

In view of the above, petitioners must show that the non-signing inventors have had an opportunity to view the instant application and, 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.

A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The officer must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be

submitted.[1]

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

[1] MPEP 409.03(b).

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of :
Douglas J. Cudney et al. :
Application No. 10/665,601 : DECISION ACCORDING STATUS
Filed: September 22, 2003 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 3156-0119P :

This decision is in response to the second request for reconsideration filed May 25, 2005, under 37 CFR 1.47(b), in response to the decision mailed February 28, 2005, dismissing the petition filed February 17, 2005.

The petition is **GRANTED.**

The above-identified application was filed on September 22, 2003 as a continuation of parent application 09/335,897 and naming Douglas J. Cudney and Karen Breitbach as joint inventors. Petitioners seek status under 37 CFR 1.47 based on the fact that the declaration was sent to Mr. Cudney's and Ms. Breitbach's last known address and based on the fact that both Mr. Cudney and Ms. Breitbach verbally refused to sign the declaration, in spite of efforts to have the oath or declaration executed.

Comes now petitioner with the instant request for reconsideration with a request for a one month extension of time.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

With respect to requirements (1) and (2), proof that additional efforts were undertaken to forward a true copy of the application to the inventors to the last known address has been provided. It has also been shown that the package was undeliverable.

Additionally, David Anderson, has signed the oath or declaration in his capacity as CEO of the assignee Phoenix Performance Products, Inc.

All requirements under 37 CFR 1.47(b) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter will be referred to Technology Center 3729 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (517) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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L9W 2C7 CANADA

KAREN BREITBACH
22 FIRST STREET
ORANGEVILLE, ONTARIO
L9W 2C7 CANADA

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of
Dennis J. Cudney et al.
Application No. 10/665,601
Filed: September 22, 2003
For: CUSHIONING PADS AND THE FORMATION OF CUSHIONING PADS

Dear Mr. Cudney and Ms. Breitbach:

You are named as joint inventors 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 joint inventors.

As named inventors 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
Senior Petitions Attorney
Office of Petitions

cc:
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KAREN BREITBACH
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JUN 13 2005

OFFICE OF PETITIONS

In re Application of
Dennis J. Cudney et al.
Application No. 10/665,601
Filed: September 22, 2003
For: CUSHIONING PADS AND THE FORMATION OF CUSHIONING PADS

Dear Mr. Cudney and Ms. Breitbach:

You are named as joint inventors 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 joint inventors.

As named inventors 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
Senior Petitions Attorney
Office of Petitions

cc:
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OFFICE OF PETITIONS

In re Application of
England
Application No. 10/665,613
Deposited: September 19, 2003
Attorney Docket No. G711
For: GAMING SYSTEM EMPLOYING BOTH ACTION FIGURE AND VIDEO GAME PLAY

: DECISION GRANTING
: PETITION

This is a decision on the petition, filed September 29, 2004 (certificate of mailing date September 24, 2004), requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed September 8, 2004.

The application was deposited on September 19, 2003. On September 8, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioner that a filing date had not been accorded to the application papers deposited on September 19, 2003 because the specification did not include at least one claim. In addition, the Notice stated that the application was missing an abstract.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the application be accorded a filing date of September 19, 2003 on the basis that a full specification, including claims and an abstract, was received in the Patent and Trademark Office (PTO) on September 19, 2003. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing September 19, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 24 pages of specification. Only pages 1-11 are present in the application file.

The return postcard constitutes *prima facie* evidence that 24 pages of specification were filed on September 19, 2003. MPEP 503. Accordingly, the request is **GRANTED**.

The petition fee submitted with the instant petition will be refunded via 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 19, 2003**, using pages 12-24 of the specification that were submitted with the instant petition. OIPE will mail a filing receipt in due course.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SUITE 3100
CHICAGO, IL 60601-1732

Mail Date: 04/21/2010

Applicant	: Steve LanPing Huang	: DECISION ON REQUEST FOR
Patent Number	: 7586398	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/665,642	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **937** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT SAMUEL SMITH
1263 EMORY STREET
SAN JOSE CA 95126

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JAN 31 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Helmut Richard Elze et al :
Application No. 10/665,644 :
Filed: September 19, 2003 :
Attorney Docket No. RSOE6 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 2005, to revive the above-identified application.

The petition is **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 35 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

In the Notice of Allowance /Notice of Allowability mailed December 20, 2004, corrected drawings are required.

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 29 2006

OFFICE OF PETITIONS

ROBERT SAMUEL SMITH
1263 EMORY STREET
SAN JOSE CA 95126

In re Application of	:	
Helmut richard Elze et al	:	
Application No. 10/665,644	:	DECISION GRANTING PETITION
Filed: September 19, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. RSOE6	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 31, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of corrected drawings (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of December 20, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Publishing Division and for review of the drawings submitted on March 31, 2006.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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IBM CORPORATION
ROCHESTER IP LAW DEPT. 917
3605 HIGHWAY 52 NORTH
ROCHESTER, MN 55901-7829

Mail Date: 04/20/2010

Applicant	: Carol Ann Egan	: DECISION ON REQUEST FOR
Patent Number	: 7624393	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/665,656	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1633** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT SAMUEL SMITH
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SAN JOSE, CA 95126

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Matthew Fredric Dawson	:	
Application No. 10/665,665	:	DECISION ON PETITION
Filed: September 19, 2003	:	
Attorney Docket No. RSF09	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and to submit corrected replacement drawings on or before May 9, 2006, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed February 9, 2006. Accordingly, the date of abandonment of this application is May 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 payment of the issue fee of $700 and replacement drawings, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for further action in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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MINNEAPOLIS MN 55415-1002

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MAY 10 2010

OFFICE OF PETITIONS

In re Patent No. 6,873,277
Issue Date: March 29, 2005
Application No. 10/665,672
Filed: September 19, 2003
Attorney Docket No: **E252.12-0003**

ON PETITION

This is a decision on the petition filed March 18, 2010 under 37 CFR 1.378(c)[1], to accept the delayed payment of the maintenance fee for the above-identified patent and to change the entity status.

The petition under 37 CFR 1.378 (c) is **GRANTED**.

The patent issued on March 29, 2005. The first maintenance fee due could have been paid during the period from March 29, 2008 to September 29, 2008 or, with a surcharge during the period from September 30, 2008 to March 29, 2009. Accordingly, this patent expired on May 10, 2009 for failure to timely remit the first maintenance fee.

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision. Fees in the amount of $930.00 for the first maintenance fee and $1,640.00 for the surcharge have been charged to the credit card provided.

In response to the request under 37 CFR 1.27(g)(2) and notification of loss of entitlement to small entity status, status as a Small Entity has been removed.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] 37 CFR 1.378(c) provides that a petition to accept an unintentionally delayed payment of a maintenance fee must be filed within twenty-four months of the six-month grace period provided in § 1.362(e) and must include:
(1) The required maintenance fee set forth in § 1.20(e) through (g);
(2) The surcharge set forth in § 1.20(l)(2); and
(3) A statement that the delay in payment of the maintenance fee was unintentional.

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WOODS FULLER SHULTZ & SMITH P.C.
ATTN: JEFFREY A. PROEHL
P.O. BOX 5027
SIOUX FALLS, SD 57117

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JUL 26 2007

OFFICE OF PETITIONS

In re Application of	:	
LOCKHART	:	
Application No.: 10/665,681	:	DECISION ON PETITION
Filing Date: September 18, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 23-0349	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed July 17, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on October 18, 2006.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment 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 was unintentional, and (4) a terminal disclaimer if the application was filed before June 8, 1995.

The instant petition does not satisfy requirement (1) above. Specifically, "PART B - FEES(S) TRANSMITTAL" or its equivalent has not been submitted. See Notice of Allowance, "How to Reply to This Notice", Section II.

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 reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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ATTN: JEFFREY A. PROEHL
P.O. BOX 5027
SIOUX FALLS, SD 57117

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OFFICE OF PETITIONS

In re Application of	:	
LOCKHART	:	
Application No.: 10/665,681	:	DECISION ON PETITION
Filing Date: September 18, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 23-0349	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 5, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed July 17, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on October 18, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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KOESTNER BERTANI LLP
1924 GALAXY DRIVE
NEWPORT BEACH, CA 92660

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MAY 0 2 2007

OFFICE OF PETITIONS

In re Application of :
David A. Holly :
Application No. 10/665,694 : DECISION ON PETITION
Filed: September 18, 2003 :
Attorney Docket No. 1016.P001 US :

This is a decision on the petition, filed September 18, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before July 21, 2006, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed April 21, 2006.

Petitioner asserts that the Notice dated April 21, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner'statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Issue fee and publication fee has been received.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Koestner Bertani LLP
18662 MacArthur Blvd.
Suite 400
Irvine, CA 92612

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500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

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APR 2 6 2010

OFFICE OF PETITIONS

In re Patent No. 7,184,464	:	
Issue Date: February 27, 2007	:	
Application No. 10/665,703	:	NOTICE
Filed: September 19, 2003	:	
Attorney Docket No. 18930US02	:	

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.

Alicia Kelley
Petitions Examiner
Office of Petitions

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OFFICE OF TECHNOLOGY TRANSFER, MSN 5G5
4400 UNIVERSITY DRIVE
FAIRFAX, VA 22030

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Victor MOROZOV et al :
Application No. 10/665,722 :
Filed: September 19, 2003 :
Attorney Docket No. GMU-08-013U :

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed June 21, 2006, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 22, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of June 21, 2006 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Pursant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum time period obtainable for reply to avoid abandonment. Accordingly, since the extension of time submitted on December 12, 2007 was subsequent to the maximum period obtainable for reply, this fee cannot be accepted to extend the period. Therefore, the $525 extension of time fee will be refunded to petitioner's deposit account no. 50-3212.

Regarding the concurrently filed response to restriction requirement, it is noted that the dates therein have been incorrectly typed. The restriction requirement date should have been June 21, 2006 instead of April 5, 2007 and the shortened statutory period expiration date should have been July 22, 2006 instead of September 21, 2006.

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051 or in her absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 1641 for appropriate action on the concurrently filed election, application data sheet and declaration.

David A. Bucci
Petitions Examiner
Office of Petitions

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1250 S. CAPITAL OF TEXAS HIGHWAY
BUILDING THREE, SUITE 160
AUSTIN, TX 78746

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SEP 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Delbert Tesar	:	
Application No. 10/665,729	:	ON PETITION
Filed: September 18, 2003	:	
Attorney Docket Number:	:	
119927-1055	:	

This is a decision on the Petition to Revive an Abandoned Application Under 37 CFR 1.137(b), filed December 27, 2005. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed February 16, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on May 17, 2005. A Notice of Abandonment was mailed September 27, 2005.

With the instant petition Applicant has submitted the issue fee.

This application is being 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

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 07/08/2010

Applicant	: Arnold J. Gum	: DECISION ON REQUEST FOR
Patent Number	: 7647055	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/665,747	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1126** 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 : **4/10/09**

TO SPE OF : ART UNIT **2853 (2800)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/665,752** Patent No.: **7,025,448**

Attn: Leonard Liang

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
South Tower - 9A22
Palm Location 7580

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X	**Approved**	**All** changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: The proposed corrections have been noted and are approved.

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER
SPE **Art Unit** 2853

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MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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OFFICE OF PETITIONS

In re Patent No. 6,899,105	:	
Issue Date: May 31, 2005	:	
Application No. 10/665,760	:	DECISION ON PETITION
Filed: September 19, 2003	:	
Attorney Docket No. 13033.11US01	:	

This is a decision on the petition under 37 CFR 1.378(c), filed October 19, 2009 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 1, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

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CATERPILLAR INC.
100 N.E. ADAMS STREET
PATENT DEPT.
PEORIA, IL 61629-6490

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OFFICE OF PETITIONS

In re Application of :
Ronald W. Fechter, et. al. :
Application No. 10/665,789 : ON PETITION
Filed: September 18, 2003 :
Attorney Docket No. 03-143 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 2006, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Restriction and/or Election Requirement mailed June 28, 2005. A Notice of Abandonment was mailed on February 15, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Election; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of $2,160 for a five (5) months extension of time filed on February 27, 2006. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $2,160 extension of time submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being referred to Technology Center Art Unit 3679.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 06/17/2010

Applicant	: David Anthony Cook	: DECISION ON REQUEST FOR
Patent Number	: 7634554	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/665,805	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1138** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CHRISTIE, PARKER & HALE, LLP
P.O. BOX 7068
PASADENA CA 91109-7068

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FEB 04 2005

OFFICE OF PETITIONS

In re Application of
Stephen James
Application No. 10/665,839
Filed: September 19, 2003
For: SWITCH WITH INSULATION DISPLACEMENT CONNECTORS

: Decision on Petition

This is in reply to Petitioner's "Petition and/or Request For Nonpublication and Certification Under 35 U.S.C. 122(b)(2)(B)(i)" filed on February 2, 2004, which is being treated as a Petition under 37 CFR 1.183 to accept the late request for nonpublication.

The petition is Dismissed.

Petitioner requests that the application not be published under 35 U.S.C. 122(b). Petitioner states that the certification and request for nonpublication were inadvertently omitted with the filing of the instant application. Petitioner now makes the Non-Publication Request certification and asks that this request to be treated as a petition for late acceptance of the nonpublication request.

35 U.S.C. 122(b) requires the United States Patent and Trademark Office to publish utility and plant applications filed on or after November 29, 2000, unless, on filing, applicant requested nonpublication with the required certification. The statute also permits the Office to publish applications filed before November 29, 2000, when applicant requests publication of such an application.

The Office has no statutory authority to accept a nonpublication request that was not filed on the filing date of the application. Since the nonpublication request submitted on February 2, 2004, was after the filing date of the application, the application remains scheduled to publish on March 24, 2005.

If applicant desires to avoid publication, he may file a continuation application under 37 CFR 1.53(b) with a nonpublication request claiming benefit to the instant application under 35 U.S.C. 120 and thereafter abandoning the application. To avoid publication, the abandonment must be received by the Office and recognized in time to avoid publication.

For further information see the "Q's & A's" under the American Inventors Protection Act of 1999 (AIPA), which is under Patents on the USPTO website, and posted at: http://www.uspto.gov/web/offices/dcom/olia/aipa/index.htm

The application will be examined in due course.

The petition fee of $130.00 under 37 CFR 1.17(h) has been charged to petitioners' Deposit Account No. 03-1728.

Telephone inquiries regarding this communication should be directed to the undersigned at (703)308-8122.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/665,844	09/19/2003	3738	375	CROL-114CP2CN3 (56290-097	1	1	1

CONFIRMATION NO. 6044

CORRECTED FILING RECEIPT

OC000000011747993

23630
MCDERMOTT, WILL & EMERY
ATTN: INTELLECTUAL PROPERTY DEPT.
28 STATE STREET
BOSTON, MA 02109

Date Mailed: 01/22/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kevin R. Stone, Mill Valley, CA;
Uri Galili, Wayne, PA;

Domestic Priority data as claimed by applicant

This application is a CON of 10/062,341 02/01/2002 ABN
which is a CON of 09/824,327 04/02/2001 ABN
which is a CON of 09/036,087 03/06/1998 PAT 6,210,440
which is a CIP of 08/529,199 09/15/1995 PAT 5,902,338

Foreign Applications

If Required, Foreign Filing License Granted: 12/11/2003

Projected Publication Date: 04/29/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Anterior cruciate ligament xenografts

Preliminary Class

623

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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JJGJR.: 08-07

Paper No:__

FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON MA 02199-7610

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AUG 2 7 2007

OFFICE OF PETITIONS

In re Application of :
Stone, et al. : DECISION
Application No. 10/665,844 :
Filing Date: 19 September, 2003 :
Attorney Docket No.: 082066-0111 :

This is a decision on the petition filed on 19 October, 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 petitions as considered under 37 C.F.R. §1.181 are **GRANTED**.

BACKGROUND

The record indicates that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 17 January, 2006, with reply due absent extension of time on or before 17 April, 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.

- the application went abandoned by operation of law after midnight 17 April, 2006;
- the Office mailed the Notice of Abandonment on 19 September, 2006;
- on 19 October, 2006, Petitioner filed the instant petition, recited that a reply was timely submitted, and provided a copy of that reply in the form, *inter alia*, of an amendment with a statement complying with the practice set forth in the Commentary at MPEP §711.03 (c) (discussed below), including a copy of the date-stamped (17 July, 2006) receipt card (see: MPEP §503[2]) evidencing receipt by the Office, and the request and fee (charged at the time) for an extension of time to make timely the reply.

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

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[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.)

made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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]

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[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]

[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

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 of a holding of abandonment.[10]

The commentary at MPEP §711.03(c) provides:

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regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[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.

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a

> reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

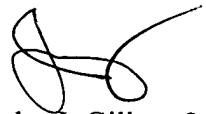
Petitioner appears to have satisfied the showing requirement described above and satisfied his burden herein.

CONCLUSION

The instant petition under 37 C.F.R. §1.181 hereby is **granted**; and the 19 September, 2006, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 1600 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

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[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
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JOHN P. WHITE
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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SEP 1 0 2008

OFFICE OF PETITIONS

In re Application of :
C. Dominique Toran-Allerand :
Application No. 10/665,847 : ON PETITION
Filed: September 19, 2003 :
Attorney Docket No. 0575/66236/JPW/AJM/DNS :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 17, 2008, to revive the above-identified application. This is also a decision on the paper entitled, "REQUEST TO WITHDRAW PETITION TO REVIVE AN UNTNTENTIONALLY ABANDONED APPLICATION UNDER 37 C.F.R. § 1.137(b), AND REQUEST FOR REFUND OF FEES filed August 26, 2008.

The petition under 37 CFR 1.137(b) is **dismissed as moot** in view of the request filed August 26, 2008, to withdraw the petition filed July 17, 2008 under 37 CFR 1.137(b).

The $750 petition fee and the $405 Request for Continued Examination (RCE) submitted on July 17, 2008, is being credit to petitioner's deposit account as authorized.

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

O I P E
AUG 2 3 2004
PATENT & TRADEMARK OFFICE
JC136

Atty. Docket No. 042390.P17326 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Application of:

Ching Hoe Lee

Application No.: 10/665,851

Filed: 9/18/2003

FOR: A Method And Apparatus for Obtaining Rapid Approval of a Request

Examiner: Not yet assigned

Art Unit: 2155

Mail Stop Missing Parts
Director of the US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR § 1.10(c)

Dear Sir:

The above identified application was awarded a filing date of September 18, 2003, as is evidenced by the attached copy of the filing receipt. However, the above-identified application was delivered by the "express mail post office to addressee" service of the United States Postal Service (USPS). Attached is a copy of the "express mail", mailing label, which bears a "date-in" of September 17, 2003.

The number of the "express mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the mailing by "express mail".

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to the Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 18, 2004 (Date of Deposit).

Joyce Klein
(Typed or printed name of person mailing correspondence)

Signature

8-18-04
Date

OIPE JC196
AUG 2 3 2004
PATENT & TRADEMARK OFFICE

Accordingly, the Director is respectfully petitioned to award the above-identified application the filing date of September 17, 2003.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: August 18, 2004

Vani Moodley
Limited Recognition Under 37 CFR § 10.9(b)

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030
(408) 720-8300

VM 150

Intel Corporation
EHT

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/665,851	09/18/2003	2155	1060	42P17326	8	30	3

CONFIRMATION NO. 8395

UPDATED FILING RECEIPT

OC000000012047055

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

OIPE JC136
AUG 2 3 2004
PATENT & TRADEMARK OFFICE

Date Mailed: 03/08/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Ching Hoe Lee, Ipoh, MALAYSIA;

RECEIVED
MAR 1 1 2004
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
LOS ANGELES

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/11/2003

Projected Publication Date: 03/24/2005

Non-Publication Request: No

MAR 12

Early Publication Request: No

Title

Method and apparatus for obtaining rapid approval of a request

Preliminary Class

709

ENTERED
MAR 1 1 2004
STATUS DB-LA

OIPE JC136
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Time In: ☐ AM ☑ PM 07:25	Military: ☐ 2nd Day ☐ 3rd Day	Return Receipt Fee
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No Delivery: ☐ Weekend ☐ Holiday	Acceptance Clerk Initials	Total Postage & Fees: $ 12.65

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Delivery Date Mo. Day	Time ☐ AM ☐ PM	Employee Signature

☐ **WAIVER OF SIGNATURE** *(Domestic Only)* **Additional merchandise insurance is void if waiver of signature is requested.** I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.

NO DELIVERY ☐ Weekend ☐ Holiday _____ Customer Signature

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Federal Agency Acct. No. or Postal Service Acct. No.

FROM: (PLEASE PRINT) PHONE ( )

042390.P17326 JHS/VXM/klk
9/17/03

TO: (PLEASE PRINT) PHONE ( )

PATENT APPLICATIONS

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EMS

OIPE JC136 AUG 2 3 2004 PATENT & TRADEMARK OFFICE

1 FW.

TRANSMITTAL **PATENT**

Application No.: 10/665,851
Filing Date: 9/18/2003
First Named Inventor Ching Hoe Lee
Examiner's Name:
Art Unit: 2155
Attorney Docket No.: 42390.P17326

_____ An Amendment After Final Action (37 CFR 1.116) is attached and applicant(s) request expedited action.
_____ Charge any fee not covered by any check submitted to Deposit Account No. 02-2666.
_____ Applicant(s) hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 CFR 1.16 and 1.17, for any concurrent or future reply to Deposit Account No. 02-2666.
_____ Applicant(s) claim small entity status (37 CFR 1.27).

ATTACHMENTS

_____ Preliminary Amendment
_____ Amendment/Response with respect to Office Action
_____ Amendment/Response After Final Action (37 CFR 1.116) (reminder: consider filing a Notice of Appeal)
_____ Notice of Appeal
_____ RCE (Request for Continued Examination)
_____ Supplemental Declaration
_____ Terminal Disclaimer (reminder: if executed by an attorney, the attorney must be properly of record)
_____ Information Disclosure Statement (IDS)
_____ Copies of IDS citations
_____ Petition for Extension of Time
_____ Fee Transmittal Document (that includes a fee calculation based on the type and number of claims)
_____ Cross-Reference to Related Application(s)
_____ Certified Copy of Priority Document
X Other: Petition Under 37 CFR § 1.10(c)
X Other: Copy of Eiling Receipt and copy of Express Mail, Mailing Label
_____ Check(s)
X Postcard (Return Receipt)

SUBMITTED BY:

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
TYPED OR PRINTED NAME: Vani Moodley
SIGNATURE:. V. Moodley
REG. NO.: Under 37 CFR § 10.9(b)
DATE: 8/18/2004
ADDRESS: 12400 Wilshire Boulevard, Seventh Floor
Los Angeles, California 90025
TELEPHONE NO.: (408) 720-8300

CERTIFICATE OF MAILING BY FIRST CLASS MAIL (if applicable)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria Virginia 22313-1450 on

August 18, 2004
Date of Deposit

Joyce Klein
Name of Person Mailing Correspondence

[signature] 8-18-04
Signature Date

(10/14/03)

Send to: COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, Virginia 22313-1450

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

GERALD H. KIEL
REED SMITH LLP
599 LEXINGTON AVENUE
NEW YORK, NY 10152

COPY MAILED

AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Richard Fischer :
Application No. 10/665,856 : NOTICE
Filed: September 19, 2003 :
Attorney Docket No. GK-HEF-966 / 500639.20033

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 3754 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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FEB 1 2 2008

OFFICE OF PETITIONS

In re Application of :
VANDEWALLE et al. :
Application No. 10/665,905 : DECISION ON PETITION
Filed: 09/15/2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 032326-273 :

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed December 26, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to prior-filed Application No. 09/172,942 set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application. While a reference to the prior-filed nonprovisional application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter filed with the application.

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 appears 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). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications 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 present case, the Office noted the claim for priority to the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1,410.00 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 the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2142 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.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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BRIAN P. KINNEAR
HOLLAND & HART
SUITE 3200
555 17TH STREET
DENVER CO 80202

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MAR 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Kerns and Bernard : DECISION REFUSING STATUS
Application No. 10/665,909 : UNDER 37 CFR 1.47(a)
Filed: 18 September, 2003 :
Atty Docket No. 35693.830007.US0 :

This is in response to the petition filed under 37 CFR 1.47(a) on 29 January, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 18 September, 2003, without an executed oath or declaration. Accordingly, on 11 December, 2003, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing.

In response, on 29 January, 2004, petitioners filed a declaration naming Mark Kerns and Noah Bernard as joint inventors, signed by joint inventor Kerns, and the late-filing surcharge.

Petitioners state that joint inventor Bernard cannot be contacted to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2).

In regards to item (1), petitioners have not provided proof that Bernard was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] While the petition states that a copy of the application, claims, and drawings were sent to joint inventor Bernard's last known address, it is unclear from the petition whether the statement was made by a person with first-hand knowledge that the documents were in fact sent.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

In regards to item (2), the declaration present with the present petition is defective in that it lacks the residence and mailing address of non-signing inventor Bernard. The oath or declaration

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[1] MPEP 409.03(d).

must identify the mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.[2] Petitioners must submit a new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by all of the signing inventors on behalf of themselves and the non-signing inventor.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[2] 37 CFR 1.63(c).

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BRIAN P. KINNEAR
HOLLAND & HART
SUITE 3200
555 17TH STREET
DENVER CO 80202

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APR 16 2004

OFFICE OF PETITIONS

In re Application of : DECISION ACCORDING STATUS
Kerns and Bernard : UNDER 37 CFR 1.47(a)
Application No. 10/665,909 :
Filed: 18 September, 2003 :
Atty Docket No. 35693.830007.US0 :

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 31 March, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established that a copy of the application was sent to the non-signing inventor, Noah Bernard. However, the non-signing inventor did not return an executed declaration listing him as a joint inventors along with Mark Kearns.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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MAR 26 2007

OFFICE OF PETITIONS

In re Application of :
Kazue Kudo et al :
Application No. 10/665,910 : ON PETITION
Filed: September 18, 2003 :
Attorney Docket No. 16869G-087100US :

This is a decision on the petition, filed March 23, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 7, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1773 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 7, 2006

TO SPE OF : ART UNIT 3747

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/665915 Patent No.: 6,997,804 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: _____

_____

_____

_____

_____

_____ 3747

SPE **Art Unit**

STEPHEN K. CRONIN
SUPERVISORY PATENT EXAMINER

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,997,804 B2

APPLICATION NO.: 10/665,915

ISSUE DATE : February 14, 2006

INVENTOR(S) : Bradley Berman

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In Claim 33, column 28, line 10, change "claim 29, further" to --claim 32, further--.

In Claim 34, column 28, line 13, change "claim 29, further" to --claim 32, further--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Adam H. Masia, BELL, BOYD & LLOYD LLC, P.O. Box 1135, Chicago, Illinois 60690-1135

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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ATTN: STEFAN V. STEIN/ IP DEPT.
201 N. FRANKLIN STREET, SUITE 2200
POST OFFICE BOX 3324
TAMPA FL 33601-3324

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JUL 02 2010

OFFICE OF PETITIONS

In re Patent No. 6930611 :
Issue Date: 08/16/2005 :
Application Number: 10/665922 : ON PETITION
Filing Date: 09/19/2003 :
Attorney Docket Number: :
55115619.32 :

This is a decision on the petition under 37 CFR 1.378(c), filed April 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 August 16, 2009, for failure to timely pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in paying the maintenance fee 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 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.

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

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19900 MACARTHUR BLVD.
IRVINE, CA 92612

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NOV 2 7 2007

OFFICE OF PETITIONS

In re Application of :
Randy Burnworth :
Application No. 10/665,930 : ON PETITION
Filed: September 19, 2003 :
Attorney Docket No. BUR1.PAU.02 :

This is a decision on the petition, filed July 12, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

A review of the record discloses that the application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed May 15, 2006. A Notice of Abandonment was mailed on April 4, 2007. In response, on July 27, 2007, the present petition was filed, as well as an Amendment and a Revocation and Power of Attorney.

The Revocation and Power Attorney filed July 12, 2007 is **not** acceptable, since the Power of Attorney is from an assignee but does not include the certificate required by 37 CFR 3.73(b). It is noted that copies of assignment documents have been provided. However, the submission of the documentary evidence must be accompanied by (1) a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (2) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

In accordance with 37 CFR 1.34(a), the signature of William A. Munck 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. Munck 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.

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 petition is GRANTED.

The application file is being forwarded to Technology Center AU 2622 for consideration of the amendment filed July 27, 2007.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: WILLIAM A. MUNCK
P.O. DRAWER 800889
DALLAS, TX 75380

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APR 06 2010

OFFICE OF PETITIONS

In re Application of:
Randy Burnworth
Application No. 10/665,930
Filed: September 19, 2003
Attorney Docket No.: TAYL08-00002

PETITION DECISION

This is a decision on the petitions under 37 CFR 1.48(c) and 37 CFR 1.47(a) filed February 2, 2010, which are being treated as a petition under 37 CFR 1.48(c) and 37 CFR 1.183 to waive the requirements of 37 CFR 1.64.

The petitions are **dismissed**.

37 CFR 1.48(c), inventors added for claims to previously unclaimed subject matter 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).

This petition is lacking items (3) and (5).

As to item (3):

Petitioner requests that the inventorship of the instant application be corrected by adding Karol Freed as a co-inventor. The originally named inventor, Randy Burnworth, who signed the originally filed declaration, is allegedly refusing to sign the replacement declaration listing both Burnworth and Freed as co-inventors. Petitions under 37 CFR 1.47 are only applicable to the initial execution of an original oath or declaration and are not applicable to supplemental oaths or declarations by the originally signing inventor. In such circumstances, the USPTO will consider

a petition under 37 CFR 1.183 requesting waiver or the requirements of 37 CFR 1.64 that each of the actual inventors execute the supplemental oath or declaration.

MPEP 603 states in part:

> When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a).

In discussing waiver requirements under 37 CFR 1.183, the Office is guided by proof similar to that required when an applicant is unavailable or refuses to sign. Petitioner indicates that the non-signing inventor Burnworth refuses to sign the replacement declaration.

MPEP 409.03(d) (II) states in part:

> 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.
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

Petitioner must demonstrate with documented evidence that an inventor refuses to join in the application after having been presented with the application papers (specification, claims, drawings and oath or declaration). There is no indication herein that joint inventor Burnworth was presented with a copy of the complete application papers for this application. From the evidence of record, it only appears that Burnworth was presented with a copy of the declaration. If Burnworth was not presented with a copy of the application papers for this application, then he could not attest that they have "reviewed and understand the application papers" and could not execute the declaration he was requested to sign. Did Burnworth receive a copy of the application papers? Unless petitioner can show that a copy of the application papers was presented to Burnworth, then petitioner will have to mail a copy of the complete application papers (specification, claims and drawings) to the last known address of Burnworth, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct.

As to item (5):

The consent of the assignee is not acceptable. The statement of Boyd Taylor, the President of the assignee, references the reel and frame number for the assignment of Randy Burnworth to Rave Engineering Corporation and Rave Engineering Corporation to Shomi Technologies Corporation. However, Mr. Taylor's statement does not include the reel and frame number of any assignment of Karol Freed to Shomi Technoloigies Corporation. Thus the consent of the assignee is incomplete.

For the reasons presented above, the petitions are dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Director for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

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JUN 2 2 2010

OFFICE OF PETITIONS

In re Application of:
Randy Burnworth et al.
Application No. 10/665,930
Filed: September 19, 2003
Attorney Docket No.: TAYL08-00002

PETITION DECISION

This is a decision on the renewed petitions under 37 CFR 1.48(c) and 37 CFR 1.47(a) filed May 24, 2010, which are being treated as a petition under 37 CFR 1.48(c) and 37 CFR 1.183 to waive the requirements of 37 CFR 1.64.

The petitions are **GRANTED.**

37 CFR 1.48(c), inventors added for claims to previously unclaimed subject matter 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).

Petitioner requests that the inventorship of the instant application be corrected by adding Karol Freed as a co-inventor. The originally named inventor, Randy Burnworth, who signed the originally filed declaration, is allegedly refusing to sign the replacement declaration listing both Burnworth and Freed as co-inventors. Petitions under 37 CFR 1.47 are only applicable to the initial execution of an original oath or declaration and are not applicable to supplemental oaths or declarations by the originally signing inventor. In such circumstances, the USPTO will consider a petition under 37 CFR 1.183 requesting waiver or the requirements of 37 CFR 1.64 that each of the actual inventors execute the supplemental oath or declaration.

MPEP 603 states in part:

> When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a).

In discussing waiver requirements under 37 CFR 1.183, the Office is guided by proof similar to that required when an applicant is unavailable or refuses to sign. Petitioner indicates that Burnworth refuses to sign the replacement declaration.

MPEP 409.03(d) (II) states in part:

> 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.
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

The renewed petition provides evidence that non-signing inventor Burnworth cannot be located or refuses to sign the replacement declaration.

The petition dismissal mailed April 6, 2010 indicated that the consent of the assignee was not acceptable as it did not include the reel and frame number for the assignment of Karol Freed to Shomi Technologies. The renewed petition includes a copy of the same consent of the assignee as presented in the previous petition. However, a statement from petitioner does identify the assignment reel and frame number of Karol Freed's assignment to Shomi Technologies and the consent of the assignee is now acceptable.

The application is being forwarded to the Office of Data Management for further processing as an allowed application.

Telephone inquiries concerning this matter should be directed to Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 07 2010

OFFICE OF PETITIONS

In re Application
Burnworth, et al.
Application No. 10/665,930
Filed: September 19, 2003
Dkt. No.: TAYL08-00002

: PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR REONCSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)," filed February 2, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is 390 days, not 344 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and, on the basis that the applicant delay is also improperly calculated.

This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

37 CFR 1.702(b)

Insofar 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 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.

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].

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).

37 CFR 1.704(c)(3)

Applicants herein contest the reduction of 346 days under 37 CFR 1.704(c)(3) in connection with the petition to revive and response to non-final Office action filed July 27, 2007. Applicants assert that the period of reduction in this regard is 362 days, from November 15, 2006 to November 12, 2007.

A review of the record reveals that the correct adjustment in connection with the petition to revive and response to non-final office action filed July 27, 2007 is 469 days pursuant to 37 CFR 1.704(c)(3). The reduction commenced August 16, 2006, the date of abandonment of the application, and ended November 27, 2007, the date that is four months after the date that a grantable petition was filed. See, 37 CFR 1.704(c)(3)(ii).

In view thereof, the request for correction of the reduction of is GRANTED TO THE EXTENT INDICATED HEREIN.

CONCLUSION

Accordingly, as of the time of allowance, the application is entitled to an overall patent term adjustment of 221 days (adjustment of 690 days less reduction of 469 days).

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Receipt is hereby acknowledged of the required patent term adjustment application fee of $200.00. See, 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Adjusted PAIR Calculation

PTA Calculations for Application: 10/665930			
Application Filing Date:	09/19/2003	PTO Delay (PTO):	690
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	346
Post-Issue Petitions:	0	Total PTA (days):	221
PTO Delay Adjustment:	-123		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
112	07/02/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		469	
111	07/02/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	346		
68	11/02/2009	MAIL NOTICE OF ALLOWANCE			
67	10/27/2009	ISSUE REVISION COMPLETED			
66	10/27/2009	DOCUMENT VERIFICATION			
65	10/26/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	10/26/2009	NOTICE OF ALLOWABILITY			
60	09/03/2009	DATE FORWARDED TO EXAMINER			
59	07/08/2009	RESPONSE AFTER NON-FINAL ACTION			
58	06/08/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
57	06/05/2009	MISCELLANEOUS ACTION WITH SSP			
56	04/03/2009	DATE FORWARDED TO EXAMINER			
55	03/30/2009	RESPONSE AFTER NON-FINAL ACTION			
54	06/23/2008	REFERENCE CAPTURE ON IDS			
53	06/23/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	01/30/2009	MAIL NON-FINAL REJECTION			
51	01/29/2009	NON-FINAL REJECTION			
50	06/23/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	11/29/2008	DATE FORWARDED TO EXAMINER			
48	10/28/2008	RESPONSE AFTER NON-FINAL ACTION			
47	10/20/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
46	10/16/2008	MISCELLANEOUS ACTION WITH SSP			
45	08/12/2008	DATE FORWARDED TO EXAMINER			

44	06/26/2008	RCE- AF PROCESSED			
43	08/12/2008	DATE FORWARDED TO EXAMINER			
42	07/21/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
41	08/12/2008	DISPOSAL FOR A RCE / CPA / R129			
40	07/21/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
39	07/10/2008	MAIL ADVISORY ACTION (PTOL - 303)			
38	07/08/2008	ADVISORY ACTION (PTOL-303)			
37	07/02/2008	DATE FORWARDED TO EXAMINER			
36	06/26/2008	AMENDMENT AFTER FINAL REJECTION			
35	06/23/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	04/23/2008	MAIL FINAL REJECTION (PTOL - 326)	148		31
33	04/22/2008	FINAL REJECTION			
32	02/28/2008	DATE FORWARDED TO EXAMINER			
31	07/27/2007	RESPONSE AFTER NON-FINAL ACTION		346	19
30	11/27/2007	MAIL NOTICE OF RESCINDED ABANDONMENT			
29	11/27/2007	NOTICE OF RESCINDED ABANDONMENT IN TCS			
26	02/12/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
25	02/11/2008	CORRESPONDENCE ADDRESS CHANGE			
24	11/27/2007	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
23	11/27/2007	PETITION TO REVIVE APPLICATION - GRANTED			
22	07/12/2007	PETITION ENTERED			
21	04/04/2007	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
20	04/01/2007	ABAND. FOR FAILURE TO RESPOND TO O. A.			
19	05/15/2006	MAIL NON-FINAL REJECTION	542		-1
18	05/12/2006	NON-FINAL REJECTION			
17	03/31/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	02/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	06/25/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	06/24/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	03/18/2004	APPLICATION RETURN FROM OIPE			

11	03/18/2004	APPLICATION RETURN TO OIPE			
10	03/18/2004	APPLICATION DISPATCHED FROM OIPE			
9	03/18/2004	APPLICATION IS NOW COMPLETE			
8	03/01/2004	ADDITIONAL APPLICATION FILING FEES			
7	03/01/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	09/19/2003	CLAIM PRELIMINARY AMENDMENT			
5	12/12/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	12/02/2003	CASE CLASSIFIED BY OIPE			
3	12/02/2003	CLEARED BY OIPE CSR			
2	10/29/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/19/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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PHILLIP H. ALBERT
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Kirmse et al.	:	DECISION ON PETITION
Application No. 10/665,932	:	TO WITHDRAW
Filed: September 18, 2003	:	FROM RECORD
Attorney Docket No. 08226/1203348-US2	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on March 6, 2006 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
Petitions Examiner
Office of Petitions

cc: Yahoo! Inc.
c/o Darby & Darby P.C.
P.O. Box 770
Church Street Station
New York NY 10008-0770

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 06/02/2010

Applicant	: Ali S. Sadri	: DECISION ON REQUEST FOR
Patent Number	: 7639643	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/665,939	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1064** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

JENKENS & GILCHRIST
1401 MCKINNEY
SUITE 2600
HOUSTON TX 77010

In re Application of
Healy et al.
Application No. 10/665,943
Deposited: September 19, 2003
Attorney Docket No. 42133-00009USPT

DECISION GRANTING PETITION

This is a decision in response to the petition under 37 CFR 1.182, filed July 26, 2004, requesting in effect, that a "Notice of Incomplete Nonprovisional Application" ("Notice") mailed May 26, 2004, be withdrawn.

The application was deposited on September 19, 2003. However, on May 26, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" advising applicants that the application papers had **not** been accorded a filing date because the application was deposited without drawings.

Petitioner acknowledges that the drawings were inadvertently omitted from the application as submitted on September 19, 2003.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence). The same practice has been followed in composition applications.

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without 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.

A review of the official file reveals that the application includes a composition claim. In view of the above, the "Notice" mailed May 26, 2004 was mailed in error and is hereby **withdrawn**.

Accordingly, the petition is **Granted**. Deposit account 10-0447 will be credited the $130.00 petition fee.

In view of the incorporation by reference of the prior application, figures 1-5b are not new matter, if they were part of the disclosure of the prior application.

The Office acknowledges receipt of the preliminary amendment requesting entry of figures 1-5b.

The application will be processed with only the papers present on filing and is hereby accorded a filing date of **September 19, 2003**, without drawings as part of the original disclosure

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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ARTHUR M. DULA
LAW OFFICE OF ARTHUR M DULA
3106 BEAUCHAMP STREET
HOUSTON TX 77009

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OFFICE OF PETITIONS

In re Application of :
Lin Lu Healy et al :
Application No. 10/665,943 : DECISION GRANTING PETITION
Filed: September 19, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 42133-00009USC1 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an response; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection mailed August 10, 2005, 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 $2,160 extension of time submitted with the petition on August 3, 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 1713 to consider the response received August 3, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHALKER FLORES, LLP
2711 LBJ FRWY
SUITE 1036
DALLAS TX 75234

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OFFICE OF PETITIONS

In re Application of	:	
Garner et al.	:	
Application No. 10/665,981	:	DECISION ON PETITION
Filed: September 19, 2003	:	
Attorney Docket No. UTSW:1063	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Election, (2) the petition fee, and (3) a proper statement of unintentional delay.

A copy of the Notice of Acceptance of Power of Attorney is also enclosed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2161 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/665,981	09/19/2003	Harold R. Garner	UTSW:1063

CONFIRMATION NO. 5373

34725
CHALKER FLORES, LLP
2711 LBJ FRWY
Suite 1036
DALLAS, TX 75234

POA ACCEPTANCE LETTER

Date Mailed: 06/10/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/05/2008.

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.

/lswalsh/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10665990	9/19/03	APICELLA ET AL.	17023.031US1

VIKSNINS HARRIS & PADYS PLLP
P.O. BOX 111098
ST. PAUL, MN 55111-1098

EXAMINER	
Padmavathi v. Baskar	
ART UNIT	**PAPER**
1645	20070718

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Applicants petition filed on 9/19/03 under 37 CFR § 1.84(b) for acceptance of color photographs for Figures 4, 6, 8-16 and 18-21 in the above-identified patent application has been reviewed and hereby accepted as formal drawings since ink drawings or black and white photographs cannot be accurately or adequately depicted the invention.

Jeffrey SiewSPE Art Unit 1645.

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OFFICE OF PETITIONS

DELIO & PETERSON
121 WHITNEY AVENUE
NEW HAVEN CT 06510

In re Application of
Walters, Jr. et al.
Application No. 10/666,007
Filed: September 19, 2003
Attorney Docket No. KX-P-007US

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed on April 18, 2006, to change the order of inventorship.

The petition is **GRANTED.**

The order of the names of the inventors will be changed as follows:

1. Lawrence S. Walters, Jr.
2. Stephen P. Huda
3. Shirley A. Ma

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARTIN TREMBLAY
7515, JODELLE
LAVAL OUEST, QC H7R 5L5
CANADA

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OFFICE OF PETITIONS

In re Application of :
Martin Tremblay et al :
Application No. 10/666,041 : ON PETITION
Filed: September 22, 2003 :
Attorney Docket No. None :

This is a decision on the petition under 37 CFR 1.137(b), filed September 12, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by

---

[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.

37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The petition and amendment filed on September 12, 2005, were signed by only one inventor. See 37 CFR 1.33(2)(b)(4).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
JEAN DUPUIS
5234, BOURBONNAIS MONTREAL QUEBEC
H1X 2M9
CANADA

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MARTIN TREMBLAY
7515, JODELLE
LAVAL OUEST QC H7R 5L5 CA
CANADA

In re Application of	:	
Martin Tremblay et al	:	
Application No. 10/666,041	:	DECISION GRANTING PETITION
Filed: September 22, 2003	:	UNDER 37 CFR 1.137(b)
For: SASH WINDOW HINGE	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 15, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of December 13, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3677.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Laliberte, et al. :
Application No. 10/666,054 :
Filed: September 22, 2003 :
Attorney Docket No. 86267-34 :

DECISION GRANTING PETITION

This is a decision on the petition filed January 19, 2005, to have the Filing Receipt corrected to reflect the priority claim to a prior-filed provisional application.

The petition is **granted**.

On September 22, 2003, the above-cited application was filed. In the declaration for the subject non-provisional application, a claim was made for priority to provisional application 60/411,387 filed September 18, 2002. After receiving a filing receipt without the inclusion of the priority data, applicant filed a request for corrected filing receipt requesting inclusion of the same. On October 6, 2004, a Response to Request for Corrected Filing Receipt was mailed indicating the priority data would not be included because the provisional application to which the subject non-provisional application claimed priority was filed more than twelve months after the prior filed provisional application. The instant petition requesting inclusion of priority data was filed, accordingly.

Petitioner maintains that the subject non-provisional application was mailed on September 17, 2003. Petitioner further maintains that Thursday, September 18, 2003, and Friday, September 19, 2003, were declared federal holidays in the District of Columbia due to adverse weather, therefore; the earliest filing date that could be accorded the application was September 22, 2003. Petitioner further argues that, pursuant to 37 CFR 1.7, the twelve-month term of the provisional application was extended to September 22, 2003, because of the declared federal holidays and the weekend that followed. Accordingly, petitioner concludes that a claim of priority can be made to the provisional application because the non-provisional application was filed within the twelve-month term of provisional application.

It is determined that the term of the provisional application is extended to September 22, 2003, because of the declared federal holidays and the ensuing weekend. Petitioner is, therefore, entitled to make a claim of priority to provisional application 60/411,387. Although the Patent and Trademark Office detected the priority claim in the declaration, petitioner is cautioned that a correct claim for priority must be included in an Application Data Sheet or in the first sentence of the specification, pursuant to 37 CFR 1.78. If the priority claim in the oath had not been detected within the period defined in 37 CFR 1.78, petitioner would have had to file a petition under 37 CFR 1.78(a)(6) to have the priority claim included and pay the surcharge.

Pursuant to this decision, a replacement filing receipt is enclosed.

The granting of this petition should not be construed as meaning the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(e) 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.

The application file is being directed Technology Center 3700, GAU 3725 for further processing.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Replacement Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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TRIMBLE NAVIGATION LIMITED C/O WAGNER BLECHER
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

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AUG 27 2008

OFFICE OF PETITIONS

In re Application of	:	
O'Meagher, Brent	:	
Application No. 10/666,079	:	ON PETITION
Filed: September 19, 2003	:	
Attorney Docket No. TRMB1400	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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225 FRANKLIN ST
BOSTON, MA 02110

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AUG 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Mark Davis :
Application No. 10/666,112 : ON PETITION
Filed: September 18, 2003 :
Attorney Docket No. 12099-003002 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 6, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed December 15, 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 16, 2004.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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NOV 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Mark Davis :
Application No. 10/666,112 : DECISION ON PETITION
Filed: September 18, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 12099-003002 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 6, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
>
> **(2)** the surcharge set forth in § 1.17(t); and
>
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on September 18, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been

included in an amendment to the first sentence of the specification following the title, as 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 applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications 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 applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

This application is being forwarded to Technology Center 2100 for appropriate action on the amendment filed August 6, 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 applications.

Any inquiries concerning this decision may be directed to Petitions Attorney Edward Tannouse at (571)272-3228.

Charles A. Pearson
Director
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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David J. Thibodeau, Jr.
Hamilton Brook Smith and Reynolds PC
530 Virginia Rd
Concord, MA 01742

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JUN 28 2006
OFFICE OF PETITIONS

In re Application of :
LeNoir E. Zaiser, et al. :
Application No. 10/666,115 : DECISION ON PETITION
Filed: September 19, 2003 : TO WITHDRAW
Attorney Docket No. 2173.2004-001 : 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 February 6, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to David J. Thibodeau, Jr. has been revoked by the assignee of the patent application on February 17, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Cheryl Gibson-Baylor at 571-272- 3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee:

cc: Rodney D. Johnson, Esq.
R.D. Johnson & Associates, P.C.
70 Walnut Street
Wellesley Hills, MA 02481

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James S. Hsue
Parsons Hsue & de Runtz LLP
Suite 1800
655 Montgomery Street
San Francisco, CA 94111

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FEB 16 2005

OFFICE OF PETITIONS

In re Application of :
Nikoonahad, et al. : DECISION ON PETITION
Application No. 10/666,120 :
Filed: September 19, 2003 :
Docket No.: TNCR.001US4 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned June 23, 2004 for failure to timely reply to the non-final Office action mailed March 22, 2004. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed December 9, 2004.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again

abandoned in favor of continuation application No. 10/948,514 filed September 22, 2004.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Therefore, no extension of time fee is due in connection with this petition. The extension of time fee submitted herewith is thus unnecessary. Petitioner may request a refund of the $1,020.00 extension of time fee submitted January 7, 2005 by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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7150 E. CAMELBACK, STE. 325
SCOTTSDALE AZ 85251

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OFFICE OF PETITIONS

In re Patent No. 6,869,336 :
Issue Date: March 22, 2005 :
Application No. 10/666,140 : ON PETITION
Filed: September 18, 2003 :
Attorney Docket No. 004.0119 :

This is a decision on the petition filed June 21, 2005, 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 inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. 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.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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TROY, MI 48099-4390

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OFFICE OF PETITIONS

In re Application of
Claude D. Gourand et al
Application No. 10/666,170
Filed: September 19, 2003
Attorney Docket No. 7171.3001.003

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 19, 2005.

The petition is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael C. Adams on behalf of all attorneys/agents of record who are associated with customer No. 23399.

All attorneys/agents associated with the Customer Number 23399 have been withdrawn.

Applicants are reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 3611.

Amelia Au
Petitions Examiner
Office of Petitions

cc: CLAUDE D. GOURAND
510 AARONS WAY
ORTONVILLE, MI 48462

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OBLON, SPIVAK, MCCELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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MAR 30 2009

OFFICE OF PETITIONS

In re Patent No. 7,466,674 :
Issued: December 16, 2008 :
Application No. 10/666,177 : ON PETITION
Filed: September 22, 2003 :
Attorney Docket No. 242959US90 :

This is a decision on the petition under 37 CFR 1.182, filed January 13, 2009, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Petitioner has submitted $130.00 towards the required petition fee of $400.00. Accordingly, petitioner's deposit account has been charged the difference of $270.00 as authorized on January 13, 2009.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to Joan Olszewski at 571-272-7751. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250, ext. 129.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, South Tower 8C23 (FAX 571-270-9753)

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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AUG 17 2004

OFFICE OF PETITIONS

In re Application of :
Reynolds Gorsuch et al :
Application No. 10/666,185 : ON PETITION
Filed: September 17, 2003 :
Attorney Docket No. TRANSVI.007DV1 :

This is a decision on the petition under 37 CFR 1.314, filed July 22, 2004, to defer issuance of the patent.

The petition is granted.

Issuance will be deferred for a period of one month from the date of this decision. At the end of this period, the application will be forwarded to the Publishing Division to be processed into a patent.

In the meantime, the application will be held in the Office of Petitions.

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances; MPEP 1306.01.

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

Central FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Window located at

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,208	09/18/2003	Hans Thomann	XOM-CON1	8301

1473 7590 12/03/2004

FISH & NEAVE LLP
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

EXAMINER	
TAYLOR, VICTOR J	

ART UNIT	PAPER NUMBER
2863	

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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NOV 16 2004

Paper No. 111504

FISH & NEAVE LLP
1251 Avenue of the Americas
50th Floor
New York, NY 10020-1105

In re Application of:
THOMANN *et al.*
Serial No.: 10/666,208
Filed: September 18, 2003
Attorney Docket No.: **XOM-CON1**

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR § 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed October 01, 2004, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. Prosecution is being reopened to consider a possible interference.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to John Barlow at (571) 272-2269.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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JJGJR.: 05-06

Paper No:__

MORRISS O'BRYANT COMPAGNI, P.C.
136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY UT 84101

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MAY 30 2006

OFFICE OF PETITIONS

In re Application of
Miskin
Application No. 10/666,237
Filing Date: 18 September, 2003
Attorney Docket No.: 3090-5854US

DECISION

This is a decision on the petition filed on 3 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**.

BACKGROUND

The record reflects that:

- the Office mailed a Restriction requirement on final action on 15 March, 2005;
- Petitioner filed a reply in the form of an Election on 18 April, 2005;
- the Office indicated on 24 June, 2005, that the reply was insufficient;
- Petitioner filed on 26 July, 2005 (over a 22 July, 2005, certificate of mailing) a reply to the 24 June Notice;

- the Examiner mailed a Notice of Abandonment on 23 March, 2006, citing a failure of Petitioner to file a "proper reply" to the 24 June Notice, however, the Examiner provides no acknowledgement of the 26 July, 2005, reply—an states that "no reply has been received--and/or what is insufficient in that reply—suggesting that the Examiner was unaware of the 26 July, 2005, paper.

It is noted that Petitioner did not enclose with his filing a copy of a date-stamped receipt card—Petitioner should do so in the future, because the File Wrapper Table of Contents does not provide the specificity required in most contexts.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

---

[1] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to 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.[7]

Petitioner appears to have satisfied that construct.

CONCLUSION

Because it appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**, the 23 March, 2006, Notice of Abandonment is **vacated**, and the fees are waived and were not charged.

The instant application is released to Technology Center 3600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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734 EAST 200 SOUTH
SALT LAKE CITY UT 84102

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OFFICE OF PETITIONS

In re Application of :
Miskin, Mark R. :
Application No. 10/666,237 : DECISION ON PETITION
Filed: 09-18-2003 :
Attorney Docket No. 3462.MISK.PT :

This is a decision on the petition under 37 CFR 1.181, filed March 21, 2007, to withdraw the holding of abandonment for the above-identified application.

On August 29, 2006, the Office mailed a nonfinal Office action, which set a three month shortened statutory period to reply. On March 2, 2007 (certificate of mailing dated February 28, 2007), applicant submitted a response, a request for an extension of time for filing a response within the third month, and the requisite fee. On March 7, 2007, the Office mailed a Notice of Abandonment, indicating the application was abandoned because no reply was received.

In the present petition, applicant asserted that he filed a timely reply pursuant to 37 CFR 1.8. A review of the record reveals that on March 2, 2007, the Office received applicant's request for a three-month extension of time to respond, the required fee, and the reply, which included a certificate of mailing dated February 28, 2007. Accordingly, the response is considered timely filed on February 28, 2007. See 37 CFR 1.8(a).

The petition is **granted**. The Notice of Abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a response was timely submitted.

The matter is being referred to Technology Center Art Unit 3641 for a review of the reply filed on March 2, 2007 (certificate of mailing dated February 28, 2007).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination procedures should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,264	09/19/2003	Ian Anthony Jones	Q90171	7763

23373 7590 12/05/2007

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
ELVE, MARIA ALEXANDRA

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
12/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Mailed: 12-5-07

caf

In re application of	:	
Ian Anthony JONES et al.	:	DECISION ON
Serial No. 10/666,264	:	PETITION
Filed: September 19, 2003	:	
For: WELDING METHOD	:	

This is a decision on the REQUEST TO WITHDRAW FINALITY, mailed October 11, 2007.

On March 22, 2007, a non-final office action was mailed to applicants. A reply to the office action was filed on June 22, 2007. In the reply, applicants amended claim 1 to include limitation from claims 30-33 and claims 30-33 were canceled. On September 12, 2007 a final office action was mailed. The examiner stated in the office action that the new ground of rejection was necessitated by Applicant's amendments to the claims and the office action was made final. On October 11, 2007, the instant petition was filed.

Petitioner has argued that the finality of the office action mailed September 12, 2007 is improper. Petitioner argues that the rejection was improperly made final because it was not necessitated by Applicants' amendment. MPEP § 706.03(o) clearly states that any new matter added to a claim "must be considered as part of the claimed subject matter and cannot be ignored." Accordingly, the examiner was under an obligation to search the prior art for the subject matter of claims 31-33 before issuing the previous office action. Because the examiner did not present any prior art rejecting those claims, Applicants properly believed that amending the claims to incorporate claims 31-33 into independent claim 1 would overcome the cited prior art. Instead, the examiner cited additional prior art which newly addressed subject matter that was not newly added by Applicants' amendment.

DECISION

Section 706.07(a) of the MPEP states:

> 706.07(a) Final Rejection, When Proper on Second Action
>
> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).
>
> Section 706.07(b) of the MPEP states:
> A second or any subsequent action on the merits in any application...should not be made final if it includes a rejection, on prior art of record, of any claim amended to include limitations which should reasonably have been expected to be claimed

The non-final office action of March 22, 2007 contained rejections under 35 USC 112, 35 USC 102 and 35 USC 103. Applicants amended claims in the response filed June 22, 2007. It is noted that claim 1 was amended to include limitations from claims 30-33 and claims 30-33 were cancelled. The addition of some of these limitations could have reasonably been expected since they were present in claims dependent on claim 1. However, the examiner could not have reasonably expected claim 1 to be amended to include the limitations of "the radiation absorbing material is selected from the group consisting of...

metal phthalocyanine dyes, metalized azo dyes and metalated indoaniline dyes". These limitations were not earlier presented. The above amendments could not have been reasonably expected to be claimed by the examiner upon issuance of the non-final rejection and thus do not preclude making the office action of September 12, 2007 a final rejection.

Further, petitioner states that the examiner cited the Kaieda reference in the final rejection to reject subject matter that was previously present in claim 31, but which was incorporated into independent claim 1 in Applicants' amendment. This is not found persuasive. The final rejection states "Kaieda et al. discloses the use of a resin and a phthalocyanine compound...". Claim 1 was amended in the response filed June 22, 2007 to include the limitations of "the radiation absorbing material is selected from the group consisting of cyanine dyes, squarylium dyes, croconium dyes, metal phthalocyanine dyes, metalized azo dyes and metalated indoaniline dyes". The Kaieda et al reference appears to have been cited by the examiner to teach the metal phthalocyanine dye added to claim 1, rather than the cyanine dye added to claim 1 from claim 31.

Accordingly, the finality of the September 12, 2007 office action was proper. The request to withdraw the finality is **DENIED.**

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

SUGHRUE MION, PLLC
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WASHINGTON DC 20037

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 2/20/08

TO SPE OF : ART UNIT 3771

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/666290 Patent No: 7278420 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: Correction requested for column 4 is denied since it involves deleting information that are part of the invention.

Correction requested for column 8 is approved because it involves changing a term that is supported by the specification and better complies with terms used in US practice.

SPE

3771
Art Unit

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OFFICE OF PETITIONS

In re Application of	:	
Dubey et al.	:	
Application No. 10/666,294	:	DECISION DISMISSING
Filed: 18 September, 2003	:	PETITION
Attorney's Docket No. 2033.66886	:	

This is a decision on the petition filed on 29 January, 2004, to accord the above-identified application a filing date of 18 September, 2003, with Figures 4 and 5 as a part of the original disclosure.

The petition is **DISMISSED**.

On 18 September, 2003, the application was filed. On 15 December, 2003, however, Initial Patent Examination Division mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of 18 September, 2003, but that Figures 4 & 5 described in the specification appeared to have been omitted from the application. A two (2)-month period for reply was set.

In response, on 29 January, 2004, the present petition was filed, accompanied by three (3) sheets of drawings containing Figures 1-5. Petitioners argue that Figures 4-5 was filed with the other application papers deposited in the USPTO on 18 September, 2003. In support, petitioners supplied with the present petition, a copy of a postcard receipt bearing a USPTO Office date stamp of 18 September, 2003, and the above-identified application number and itemizing the filing of three (3) sheets of drawings.

A review of the record reveals that three (3) sheets of drawings containing Figures 1-3 are located in the application file. Figures 4 and 5, however, cannot be located among the application papers deposited on 18 September, 2003.

Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard (e.g. the number of pages of specification (including written description, claims and abstract) number of claims, number of sheets of drawings, number of pages of oath/declaration. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[1]

Petitioners argument has been considered, but is not persuasive. The showing of record is that three (3) sheets of drawings containing Figures 1-3 were received in the Office on 18 September, 2003, and petitioner's postcard receipt reflects that the Office received the items listed above. While the postcard itemizes the filing of three (3) sheets of drawings, it, unfortunately, does not itemize the filing of Figures 4 and 5, or any drawing figures at all. Furthermore, counsel's declaration that he counted all of the sheets of drawings and drawing figures prior to filing the application is not more persuasive than the contents of the official file. Absent a showing that Figures 4 and 5 were located within the three (3) sheets of drawings received in the Office on 18 September, 2003, petitioners simply have no evidence that Figures 4 and 5 were located among the application papers received in the Office on that date.

Petitioner may submit Figures 4 and 5 in the form of a preliminary amendment. If Figures 4 and 5 are submitted as a preliminary amendment, they will be reviewed by the examiner for new matter.

As the petition resulted from applicant's filing error and not as a result of an error on the part of the Office, the petition fee will not be refunded.

The application will be processed and examined using the three

[1] MPEP 503.

(3) sheets of drawings containing Figures 1-3 filed on 18 September, 2003. The sheets of drawings filed with the present petition will not be processed or examined, but will be retained in the application file.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 18 September, 2003, using the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Dubey et al.	:	CORRECTED
Application No. 10/666,294	:	DECISION GRANTING
Filed: 18 September, 2003	:	PETITION
Attorney's Docket No. 2033.66886	:	

This is a corrected decision on the petition filed on 29 January, 2004, to accord the above-identified application a filing date of 18 September, 2003, with Figures 4 and 5 as a part of the original disclosure.

The petition is **GRANTED**.

On 18 September, 2003, the application was filed. On 15 December, 2003, however, Initial Patent Examination Division mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of 18 September, 2003, but that Figures 4 & 5 described in the specification appeared to have been omitted from the application. A two (2)-month period for reply was set. The petition filed on 29 January, 2004, was dismissed on 2 April, 2004.

Upon further review, the sheet of drawings filed on 18 September, 2003, containing Figures 4 & 5 has been located in the official file. Therefore, the application as filed is entitled to a filing date of 18 September, 2003, with Figures 4 & 5 as a part of the original disclosure.

The Notice mailed on 18 September, 2003 is vacated.

The application will be processed and examined using the three (3) sheets of drawings containing Figures 1-5 filed on 18 September, 2003.

As the petition resulted from an Office error, the petition fee of $130.00 will be refunded to counsel's deposit account, No. 07-2069.

The application file is being forwarded to Technology Center 1700 for further processing with a filing date of 18 September, 2003, using the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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11401 CENTURY OAKS TERRACE
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AUSTIN TX 78758

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OFFICE OF PETITIONS

In re Application of	:	
Smith et al.	:	
Application No. 10/666,306	:	ON APPLICATION FOR
Filed: 09/18/2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. CIS0294US	:	

This is in response to the PETITION FOR REVIEW OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed December 1, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is eight hundred four (804) days, not one hundred thirty (130) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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BIRDWELL & JANKE, LLP
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OFFICE OF PETITIONS

In re Application of :
Arthur G. Olszak, et al. :
Application No.10/666,330 :
Filed: September 19, 2003 :
Attorney Docket No. P 6121.62022 :

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition, filed June 28, 2005, which is being treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) 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 Commissioner may require additional where there is a question whether the delay was unintentional.

The petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) and § 119(e). Accordingly, the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the 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 Sherry D. Brinkley at (571) 272-3204.

This application is being forwarded to Technology Center Art Unit 2851 for appropriate action on the amendment submitted June 28, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT : Corrected Filing Receipt

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OFFICE OF PETITIONS

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In re Application of :
Hong Shih, et al. :
Application No. 10/666,331 :
Filed: September 17, 2003 :
Attorney Docket No. LMRX-P023/P1130 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed February 15, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in an eighteen month publication country on September 16, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b)/(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [notification of foreign filing under 35 U.S.C. § 122(b)(2)(B)(iii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as

provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 28, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204.

This application is being forwarded to Technology Center Art Unit 1746.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

06/03/04

Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1030

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/666343 received on 05/12/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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OFFICE OF PETITIONS

In re Application of :
Robert S. Galen et al :
Application No. 10/666,364 : DECISION GRANTING PETITION
Filed: September 19, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. DDI-028CON1 :

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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 26, 2004, as required by the Notice of Allowance and Fee(s) Due, mailed August 25, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

The address on the petition differs from the address of record. If appropriate, a change of address should be submitted. A courtesy copy of this decision is being mailed to the address on the petition; however, until otherwise instructed, all future correspondence will be directed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Mayumi Maeda
Johnson & Johnson
P O Box 1222
New Brunswick, NJ 08933

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OFFICE OF PETITIONS

In re Application of :
Dennis Brandon : DECISION GRANTING PETITION
Application No. 10/666,387 :
Filed: 18 September, 2003 :
Attorney Docket No. 28396-6 :

This is a decision on the petition filed on 30 January, 2004, requesting that the above-identified application be accorded a filing date of 18 September, 2003, with a complete specification as a part of the original disclosure.

The petition is granted.

The application was filed on 18 September, 2003. However, on 29 January, 2004, Initial Patent Examination Division mailed a "Notice Of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because a complete specification in compliance with 35 U.S.C. § 112 was missing.

In response, on 30 January, 2004, the present petition was filed, accompanied by 16 pages of specification, including claims and one (1) page of abstract, and 10 sheets of drawings. Petitioners assert that the above-identified application is a divisional of Application No. 09/795,645 filed on 28 February, 2001, and that the prior application was incorporated by reference.

A search of the official file reveals that on 18 September, 2003, a "Utility Patent Application Transmittal" letter was filed which itemized the filing of a declaration and preliminary amendment. The transmittal letter states that the application is a divisional of Application No. 09/795,645, and that the entire disclosure from the prior application is incorporated by reference.

Based on petitioners' representation that the papers supplied with the petition constitute a copy of the "complete

specification" of the prior application, and the incorporation by reference statement appearing on the transmittal letter deposited on 18 September, 2003, stating that the entire disclosure of prior application (identified as Application No. 09/795,645) on the transmittal letter was incorporated by reference in the present application on 18 September, 2003, it appears that the specification was present in the Office on 18 September, 2003, albeit in the file of another application, *i.e.*, Application No. 09/795,645. Therefore, on petition, the application may be accorded the requested filing date.

The application will be processed and examined with the 16 pages of specification, including claims and abstract, and 10 sheets of drawings supplied on 30 January, 2004, as a part of the original disclosure.

The petition is granted. Since the petition was required to accord the requested filing date, the petition fee of $130.00 will not be refunded.

Of course, the primary examiner is expected to compare the specification supplied on 30 January, 2004, to the disclosure of prior application No. 09/795,645 in order to verify that the specification is, in fact, part of the disclosure of the prior application.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to 18 September, 2003, using the application papers filed on that date and the 16 pages of specification and claims, including one (1) page of abstract, and 10 sheets of drawings supplied with the present petition, as the original disclosure, and for an indication in Office records that 10 sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/666,393	09/17/2003	2812	1434	501298.02	4	44	6

CONFIRMATION NO. 7509

CORRECTED FILING RECEIPT

OC000000011896016

Kimton N. Eng, Esq.
DORSEY & WHITNEY LLP
Suite 3400
1420 Fifth Avenue
Seattle, WA 98101

Date Mailed: 02/12/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Philip Neaves, Surrey, UNITED KINGDOM;

Domestic Priority data as claimed by applicant

Foreign Applications

UNITED KINGDOM 0311604.3 05/20/2003

If Required, Foreign Filing License Granted: 12/10/2003

Projected Publication Date: 11/25/2004

Non-Publication Request: No

Early Publication Request: No

Title

System and method for balancing capacitively coupled signal lines

Preliminary Class

438

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,398	09/19/2003	Douglas S. Ransom	6270/126	9324

46260 7590 04/22/2010

BRINKS HOFER GILSON & LIONE/PML
PO BOX 10395
CHICAGO, IL 60610

EXAMINER	
VON BUHR, MARIA N	

ART UNIT	PAPER NUMBER
2121	

MAIL DATE	DELIVERY MODE
04/22/2010	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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,398	09/19/2003	Douglas S. Ransom	6270/126	9324

46260 7590 04/22/2010

BRINKS HOFER GILSON & LIONE/PML
PO BOX 10395
CHICAGO, IL 60610

EXAMINER	
VON BUHR, MARIA N	
ART UNIT	**PAPER NUMBER**
2121	
MAIL DATE	**DELIVERY MODE**
04/22/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,398	09/19/2003	Douglas S. Ransom	6270/126	9324

46260 7590 04/22/2010

BRINKS HOFER GILSON & LIONE/PML
PO BOX 10395
CHICAGO, IL 60610

EXAMINER	
VON BUHR, MARIA N	
ART UNIT	**PAPER NUMBER**
2121	
MAIL DATE	**DELIVERY MODE**
04/22/2010	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.

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Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, Illinois 60610

(For Applicant)

MAILED

APR 22 2010

Gerald E. Hespos
Casella & Hepos LLP
274 Madison Avenue, Suite 1703
New York, NY 10016

(Courtesy Copy)

CENTRAL REEXAMINATION UNIT

In re Application of:	:	**DECISION GRANTING**
Douglas S. Ransom et al.	:	**PETITION TO REPLACE**
Application No. 10/666,398	:	**PROTECTED DOCUMENT**
Filed: September 19, 2003	:	**SUBMITTED AUGUST 11, 2009**
Attorney Docket No.: 6270-126	:	**WITH REDACTED VERSION**

This is a decision on applicant's April 9, 2010 petition paper entitled "Petition to Return and Replace Paper Pursuant to 37 C.F.R. §1.182" (the "Petition") and applicant's April 14, 2010 paper entitled "Supplement to Petition to Return and Replace Paper Pursuant to 37 C.F.R. §1.182." The decision also addresses a third party's (E.I. Electronics) December 22, 2009 paper entitled "Petition under 37 C.F.R. 1.183."

The papers are before the Office of Patent Legal Administration.

The petition is **granted**. The redacted form of the Bingham report filed April 9, 2010, and the substitute form PTO-1449 reflecting the redaction are accepted for entry into the present application. The version of the Bingham report (subject to protective order) submitted August 11, 2009 and the accompanying form 1449 are being expunged from the record of the application.

FEES

The petition fee of $400 pursuant to 37 CFR 1.17(f) for the April 9, 2010 petition under 37 CFR 1.182 was charged on April 9, 2010.

The petition fee of $400 pursuant to 37 CFR 1.17(f) for the December 22, 2009 petition under 37 CFR 1.183 was charged to third party's Deposit Account No. 03-1030, as authorized on page 3 of the petition.

DECISION

On August 11, 2009, applicant filed an information disclosure statement (IDS) which cited and provided a copy of a document referred to as the "Bingham Report" and denoted as item J91 on an accompanying form PTO-1449.

On December 22, 2009, third party E.I. Electronics filed a paper entitled "Petition under 37 C.F.R. § 1.183" requesting the expungement of pages 57-71 of the Bingham report. To support its request, E.I. Electronics provided a copy of a decision by the United States District Court for the Northern District of Illinois, Eastern Division issued December 14, 2009. The December 14, 2009 decision granted relief from asserted violations of a protective order that had been issued in the ongoing litigation[1] between the assignee (Square D Company) of the present application and E.I. Electronics and directed that the above-mentioned document be expunged from a list of Office proceedings. - including the present 10/666,398 application.

As an initial matter, it is noted that the petition of the litigation defendant is not entitled to entry under the rules – see 37 CFR § 1.99, 1,291, and 1.292. The litigation defendant failed to suggest any provision of the regulations which could provide a basis for entry of its petition, and the Office can identify none. Thus, by rule, the litigation defendant, E.I. Electronics, is not entitled to consideration of the December 22, 2009 petition. Pursuant to 37 CFR 1.183, however, "[i]n an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed." In the present instance, the December 22, 2009 petition stated at pages 2-3 that the December 14, 2009 court order (attached as Exhibit C to the December 22, 2009 petition under 37 CFR 1.183) directs the Office to expunge pages 57-71 of the Bingham Report from all Office records, and specifically mentions the instant application. In order to comply with the court order to protect the rights of the litigation defendant, the interests of justice require that the application entry right rules be *sua sponte* waived, and the Office is waiving the rules in order to enter and consider the litigation defendant's petition paper. The petition paper was presented solely to assert the third party's rights in protecting the confidentiality of its materials and in no way deals with the merits of the present application.

On April 9, 2010, applicant, in order to comply with the court order, filed a petition requesting expungement from the record, without consideration by the examiner, of pages 57-71 of a document that was submitted as part of a August 11, 2009 information disclosure statement, and denoted as J91 on the accompanying form PTO-1449. Applicant proposed to effect the expungement by means of replacing the originally submitted version of the Bingham report with a version that eliminates the pages that are subject to the protective order (pages 57-71). In the present petition, applicant stated that:

i) the replacement copy of the Bingham Report is identical to "the originally submitted document except for the removal of pages 57-71,"

---

[1] *Square D Company v. EI Electronics, Inc.*, 1:06-cv-5079 (N.D. Ill.)

ii) the substitute Form 1449 is identical except that the annotation of J91 has been changed to reflect that only specific pages are now included, and

iii) the removed pages of the Bingham report are not material to patentability.

On April 14, 2010, petitioner applicant supplemented the present petition by a further filing in which petitioner stated that the information is subject to a protective order, the information had not been made public, and petitioner committed to retain the information for the period of the patent.

In view of the terms of the protective order, the irreparable harm to the litigation defendants that would be caused by public disclosure of the protected materials, and the facts and circumstances in this instance, the applicant's petition under 37 CFR 1.182 to replace the document subject to protective order with a version that is not subject to the protective order is granted.

Since the present application has been published, a one-time courtesy copy of this decision is being sent to third party E.I. Electronics.

ADDITIONAL DISCUSSION

This decision does not relieve applicant of the duty to disclose to the Office information applicant is aware of which is material to patentability pursuant to 37 CFR 1.56, regardless of whether the "material" information can be classified as a trade secret, or as proprietary material, or whether it is subject to a protective order. MPEP § 724 sets forth procedures designed to enable the Office to ensure as complete an application or patent file wrapper as possible insofar as "material" information is concerned, while preventing unnecessary public disclosure of trade secrets, proprietary information, and information subject to a protective order. Also, such information can be redacted to the extent deemed appropriate to satisfy the duty to disclose. Should a situation arise where the duty to disclose is in conflict with the protective order (i.e. if the disclosure of protected information would be needed in order to comply with applicant's duty), applicant should approach the court for relief from the protective order.

CONCLUSION

1. The relief requested in the applicant's petition **is granted** to (a) expunge the August 11, 2009 Bingham report identified as item J91 on the accompanying form 1449 and (b) accept a replacement (submitted April 9, 2010) redacted to eliminate the protected material.

2. The relief requested in the applicant's petition **is granted** to replace the August 11, 2009 Form 1449 (listing the submitted documents) with the April 9, 2010 Form 1449.

3. As the documents to be expunged have already been made part of the Image File Wrapper (IFW) system and cannot be physically returned, expungement is effected by permanently sealing the documents identified above by closing the documents in the IFW and marking them as non-public.

4. Inquiries regarding the present decision may be directed to Pinchus M. Laufer, Legal Advisor, at (571) 272-7726, or, in his absence, to Susy Tsang-Foster, Legal Advisor at (571) 272-7711.

Kenneth M. Schor

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

Kenpet 8
4-20-10

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OFFICE OF PETITIONS

WEN JEN YUAN
P.O. BOX 55-846
TAIPEI 104 TW TAIWAN

In re Patent No. 6,848,751 :
Issue Date: February 1, 2005 :
Application No. 10/666,405 : ON PETITION
Filed: September 15, 2003 :
Title: Non-Rotational Emblem Means As Constantly Upright-Oriented On Wheel Disc :

This is a decision on the petition under 37 CFR 1.378(c), filed September 23, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (3) of the above items.

With respect to item (3), petitioner submitted $810.00 towards the required $1,640.00 surcharge fee. Accordingly, an additional $830.00 is required. As stated above, a $400.00 petition fee is also required for any petition for reconsideration, bringing the total to $1,230.00.

Further, the petition must be signed by:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;

(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or

(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

If the instant petition is on the behalf of the assignee, petition does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

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 delay in filing a timely response 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 in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office.

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Xin Chen
2922 Forest Meadow Dr.
Round Rock, TX 78665

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of :
David E. Martin :
Application No. 10/666,425 : ON PETITION
Filed: September 19, 2003 :
Attorney Docket No. 2002P15891US01 :

This is a decision in response to the petition, filed February 25, 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 a failure to reply in a timely manner to a non-final Office action mailed April 26, 2007. A Notice of Abandonment was mailed on November 28, 2007. In response, on February 25, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2194 for appropriate action by the Examiner in the normal course of business on the reply received February 25, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KEITH FRANTZ
401 WEST STATE ST
SUITE 200
ROCKFORD IL 61101

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MAR 1 7 2006

OFFICE OF PETITIONS

In re Application of :
Fuhrmann, et al. :
Application No. 10/666,429 : ON PETITION
Filed: September 19, 2003 :
Title: EMERGENCY EVACUATION SYSTEM :
FOR HIGH-RISE BUILDINGS

This is a decision on the "PETITION REQUESTING ACCEPTANCE OF APPARENT BUT NOT ACTUAL LATE PAYMENT OF ISSUE FEES", filed February 11, 2006, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 10, 2005. This notice set a statutory period for reply of three (3) months. The issue fee was filed on February 13, 2006, bearing a Certificate of Mailing under 37 CFR §1.8 dated February 11, 2006. However, the last day the issue fee could have been dated pursuant to §1.8 to be considered timely filed would have been February 10, 2006. Accordingly, the above-identified application became abandoned on February 11, 2006. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

Petitioner argues that the Certificate of Mailing was inadvertently dated February 11, 2006, even though it was deposited pursuant to §1.8 on February 10, 2006. Therefore, according to petitioner, the issue fee should be treated as having been timely filed. Petitioner's argument has been considered, but is not persuasive. 37 CFR §1.8(a)(ii) sets forth that one of the requirement is that the correspondence must state the date of deposit or transmission.

Petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR §1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR §1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR §1.17(m), currently $1500 ($750 for a small entity); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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401 WEST STATE ST
SUITE 200
ROCKFORD IL 61101

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OFFICE OF PETITIONS

In re Application of :
Fuhrmann, et al. :
Application No. 10/666,429 : ON PETITION
Filed: September 19, 2003 :
Title: EMERGENCY EVACUATION SYSTEM FOR HIGH-RISE BUILDINGS :

This is a decision on the petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed November 22, 2006

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 November 10, 2005. This notice set a statutory period for reply of three (3) months. The issue fee was filed on February 13, 2006, bearing a Certificate of Mailing under 37 CFR §1.8 dated February 11, 2006. However, the last day the issue fee could have been dated pursuant to §1.8 to be considered timely filed would have been February 10, 2006. Accordingly, the application became abandoned on February 11, 2006. Applicants filed a petition to withdraw the holding of abandonment on February 11, 2006. However, the petition was dismissed in a decision mailed on March 17, 2006. A Notice of Abandonment was mailed on July 10, 2006.

With the instant petition, applicants paid the petition fee and made the proper statement of unintentional delay. The required reply in the form of the issue fee was previously filed on February 13, 2006.

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

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ATTN: IP SERVICES, K1-53
P. O. BOX 999
RICHLAND, WA 99352

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AUG 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Yong Wang, et al. :
Application No. 10/666,430 : ON PETITION
Filed: September 13, 2003 :
Attorney Docket No.: B-1484-DIV2 :
:

This is a decision on the petition, filed May 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. A copy of the petition was provided on August 22, 2005, since the original petition cannot be located.

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 18, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The application is being referred to Technology Center AU 1754 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: FRANK ROSENBERG
18 ECHO HILL LANE
MORAGA, CA 94556

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Commissioner for Patents
United States Patent and Trademark Office
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1560 BROADWAY
SUITE 1200
DENVER, CO 80202

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of
Van Doren et al.
Application No. 10/666,433
Filed: September 18, 2003
Attorney Docket No. 3944-13-CIP

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 11, 2005, 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 **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

Intermediate nonprovisional Application No. 10/102,614 was filed within twelve months of provisional Application No. 60/278,034, which was filed on March 21, 2001, for which priority is claimed. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. 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 substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), 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 Window located at:
U.S. Patent and Trademark Office
Customer Service Window 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 Paralegal Liana Chase at (571) 272-3206.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *Note* 37 CFR 1.121

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OFFICE OF PETITIONS

In re Application of
Van Doren et al.
Application No. 10/666,433
Filed: September 18, 2003
Attorney Docket No. 3944-13-CIP

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed April 11, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition still does not comply with item (1) above.

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. 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).

The amendment submitted with the instant petition on April 11, 2005 is still not acceptable as drafted. The last sentence in the amendment, beginning with "the entire disclosure of these prior amendments..." is still perceived as an incorporation by reference statement and should be deleted in its entirety. Also, the format for deleting subject matter, as stated in 37 CFR 1.121, is as follows:

> The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters.

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), is required.

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By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Paralegal Liana Chase at (571) 272-3206.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *Note* 37 CFR 1.121

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DENVER CO 80202

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OFFICE OF PETITIONS

In re Application of	:	
Van Doren et al.	:	
Application No. 10/666,433	:	DECISION GRANTING PETITION
Filed: September 18, 2003	:	UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 3944-13-CIP	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 25, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on September 18, 2003 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Paralegal Liana Chase at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 2125 for appropriate action on the amendment submitted May 25, 2005, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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Welsh & Katz, LTD
120 S Riverside Plaza
22nd Floor
Chicago, IL 60606

In re application of
Oscar Dale Larson et al.
Application No. 10/666,447
Filed: September 19, 2003
For: DOOR WITH LOCKSET

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed January 5, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed January 5, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on January 5, 2004.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/vdb: 6/3/04

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In re Application of	:	
Katell Decamp	:	
Application No. 10/666469	:	DECISION
Filing or 371(c) Date: 09/19/2003	:	ON PETITION
Attorney Docket Number: 43869.046100	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 11, 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 April 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

This application is being referred to Technology Center AU 3677 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted with the petition in accordance with 37 CFR 1.114.

Derek L. Woods
Attorney
Office of Petitions

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NEW YORK NY 10176

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OFFICE OF PETITIONS

In re Application of :
Schmid et al. :
Application No. 10/666,478 : ON PETITION
Filed: 19 September, 2003 :
Attorney's Docket No. 5367-41 :

This is a decision on the petition filed on 13 February, 2004, requesting that the above-identified application be accorded a filing date of 19 September, 2003, with Page 15 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 19 September, 2003.

Accordingly, on 11 December, 2003, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 19 September, 2003, but that Page 15 of the specification (description and claims) appeared to have been omitted.

In response, on 13 February, 2004, the present petition and a copy of Page 15 of the specification were filed. Petitioners argues that Page 15 was filed with the other application papers on 19 September, 2003, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 19 September, 2003, the above-identified application number, and identifies the application by first named inventor's name, docket number, and invention title, and acknowledges receipt of, *inter alia*, "Title Page, Specification, Claims 1 to 18 & Abstract (17 pages [total number of pages of application]); Three (3) sheet(s)

of drawing(s) (Figs. 1 to 3)". Petitioners request that the application, including Page 15 of the specification, be accorded a filing date of 19 September, 2003.

A review of the record reveals that no Page 15 of the specification has been located among the application papers received on 19 September, 2003. However, the evidence is convincing that the application papers deposited on 19 September, 2003, included Page 15 of the specification (description and claims) and abstract, which was subsequently misplaced in the Office. Therefore, the application, including Page 15 of the specification, is entitled to a filing date of 19 September, 2003.

The "Notice" mailed on 11 December, 2003, is vacated to the extend that it stated that Page 15 of the specification appeared to have been omitted.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application will be processed with the copy of Page 15 of the specification supplied on 13 February, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 13 February, 2004, using the application papers filed on that date, and the copy of Page 15 of the specification supplied with the present petition.

Telephone inquires should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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In re Application of
Schmid et al.
Application No. 10/666,478
Filed: 19 September, 2003
Attorney's Docket No. 5367-41

: ON PETITION
:
:

This is a decision on the petition filed on 13 February, 2004, requesting that the above-identified application be accorded a filing date of 19 September, 2003, with Page 15 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 19 September, 2003.

Accordingly, on 11 December, 2003, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 19 September, 2003, but that Page 15 of the specification (description and claims) appeared to have been omitted.

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P06356US00
9/19/03 Granted
See Arrow??

[redacted]

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The "Notice" mailed on 11 December, 2003, is vacated to the extend that it stated that Page 15 of the specification appeared to have been omitted.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application will be processed with the copy of Page 15 of the specification supplied on 13 February, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 13 February, 2004, using the application papers filed on that date, and the copy of Page 15 of the specification supplied with the present petition.

Telephone inquires should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Schmid et al.	:	CORRECTED DECISION
Application No. 10/666,478	:	ON PETITION
Filed: 19 September, 2003	:	
Attorney's Docket No. 5367-41	:	

This is a corrected decision on the petition filed on 13 February, 2004, requesting that the above-identified application be accorded a filing date of 19 September, 2003, with Page 15 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 19 September, 2003.

Accordingly, on 11 December, 2003, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 19 September, 2003, but that Page 15 of the specification (description and claims) appeared to have been omitted.

In response, on 13 February, 2004, the present petition and a copy of Page 15 of the specification were filed. Petitioners argues that Page 15 was filed with the other application papers on 19 September, 2003, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 19 September, 2003, the above-identified application number, and identifies the application by first named inventor's name, docket number, and invention title, and acknowledges receipt of, *inter alia*, "Title Page, Specification, Claims 1 to 18 & Abstract (17 pages [total number of pages of application]); Three (3) sheet(s)

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In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application will be processed with the copy of Page 15 of the specification supplied on 13 February, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 19 September, 2003, using the application papers filed on that date, and the copy of Page 15 of the specification supplied with the present petition.

Telephone inquires should be directed to the undersigned at 703-308-6918.

DWood

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OFFICE OF PETITIONS

In re Patent No. 7,222,637 :
Issue Date: May 29, 2007 :
Application No. 10/666,485 : ON PETITION
Filed: September 19, 2003 :
Attorney Docket No. MM5028 :

This is a decision on the statement in support of Request for Certificate of Correction filed November 7, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The $130 fee for the petition under 37 CFR 3.81 will charged to petitioner's deposit account 50-4581, as authorized.

Telephone inquiries concerning this decision may be directed to JoAnne Burke at (571) 272-4584. 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.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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NEW YORK NY 10036

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In re Patent No. 7026444 :
Issue Date: 04/11/2006 : NOTICE
Application No. 10/666513 :
Filed: 09/19/2003 :
Attorney Docket No. 55873-C :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on 16 May, 2007.

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) 272-3231.

D Wood

Douglas Wood
Senior Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/666,517	09/19/2003	1772	1042	01081CON		29	1

CONFIRMATION NO. 9174

CORRECTED FILING RECEIPT

OC000000012176234

Michelle B. Lando
Cabot Corporation
Billerica Technical Center
157 Concord Road
Billerica, MA 01821-7001

Date Mailed: 03/24/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Michael D. Morris, Nashua, NH;
Christopher A. Toles, Framingham, MA;

Assignment For Published Patent Application

Cabot Corporation, Boston, MA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/412,216 09/20/2002

Foreign Applications

If Required, Foreign Filing License Granted: 12/15/2003

Projected Publication Date: 07/01/2004

Non-Publication Request: No

Early Publication Request: No

Title

Zirconium-containing metal oxide dispersions for recording media with improved ozone resistance

Preliminary Class

428

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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COHEN, PONTANI, LIEBERMAN & PAVANE LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

Mail Date: 04/21/2010

Applicant	: Mitsuru Mimori	: DECISION ON REQUEST FOR
Patent Number	: 7636290	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/666,518	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **371** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Alexandria, Virginia 22313-1450
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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

Mail Date: 04/20/2010

Applicant	: Luc Wolff	: DECISION ON REQUEST FOR
Patent Number	: 7592499	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/666,523	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **422** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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LADAS & PARRY
Suite 2100
5670 Wilshire Boulevard
Los Angeles, CA 90036-5679

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MAY 14 2004

OFFICE OF PETITIONS

In re Application of :
Raghavan, et al. : DECISION REFUSING STATUS
Application No. 10/666,532 : UNDER 37 CFR 1.47(b)
Filed: September 19, 2003 :
Atty. Dkt. No.: B-3996NP621226-5 :
For: SYMMETRIC PLANAR INDUCTOR :

This decision is in response to the petition under 37 CFR 1.47(b), filed February 20, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor(s). 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 September 19, 2003 without an executed oath or declaration and naming Gopal Raghavan and Michael G. Case as joint inventors. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed December 15, 2003. The Notice required, *inter alia*, an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The instant petition lacks requirements (1), (2), and (6) set forth above.

As to item (1), petitioner has failed to establish that the inventors received the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration. The documents accompanying the petition indicate that the inventors were sent a declaration/power of attorney and that no responses were received.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventors. Petitioner has presented no evidence that the non-signing inventors were ever presented with a complete copy of the application papers (specification, claims, drawings, oath or declaration) for the instant application.

Any renewed petition should be accompanied by evidence to sufficiently establish that the non-signing inventors were sent a complete copy of the application papers and thereafter refused to execute the declaration. A copy of the application papers should be sent to the last known address of the non-signing inventors, or, if the non-signing inventors are represented by counsel, to the address of the non-signing inventors' attorney. Petitioner may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventors receive the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. Petitioner has failed to establish that the person executing the declaration has a sufficient proprietary interest in the application. Accordingly, the declaration submitted herewith has not been properly executed. The declaration should be executed by a corporate officer, such as the president, vice

president, secretary, or treasurer of the assignee on behalf of and as agent for the non-signing inventors. The corporate officer's title or position must be identified in the declaration. If an officer is unavailable to execute the declaration, the declaration may be signed on behalf of the corporation by one whose proof of signing authority has been submitted to the Office, such as the corporation's attorney. The signature block of the non-signing inventor should remain unexecuted. Petitioner's attention is directed to MPEP 409.03(b) for further guidance.

As to item (5), petitioner has failed to sufficiently establish a proprietary interest in the application. Petitioner indicates that proprietary interest lies with HRL Laboratories, LLC. Petitioner has failed to establish that the inventors assigned or agreed to assign the invention to HRL Laboratories. Further, the employment contracts submitted with the instant petition appear to be agreements between Hughes Aircraft Company and the inventors. Moreover, the employment contracts do not indicate that the inventor's have assigned or agreed to assign the invention to HRL Laboratories, LLC or Hughes Aircraft Company.

Any renewed petition must establish that the invention has been assigned to applicant, that the inventor has agreed in writing to assign the invention to applicant, or that applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. Petitioner must submit a copy of an employment agreement between the inventor and applicant or a legal memorandum signed by an attorney familiar with the law of the relevant jurisdiction stating that a court of competent jurisdiction would by weight of authority in that jurisdiction award title of the invention to Rule 47 applicant.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:
(703) 872-9306

By hand:
Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03

Arlington, VA 22202

Inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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5670 Wilshire Boulevard
Los Angeles, CA 90036-5679

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JUL 23 2004

OFFICE OF PETITIONS

In re Application of :
Raghavan, et al. : DECISION REFUSING STATUS
Application No. 10/666,532 : UNDER 37 CFR 1.47(b)
Filed: September 19, 2003 :
Atty. Dkt. No.: B-3996NP621226-5 :
For: SYMMETRIC PLANAR INDUCTOR :

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed June 14, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor(s). 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 September 19, 2003 without an executed oath or declaration and naming Gopal Raghavan and Michael G. Case as joint inventors. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed December 15, 2003. The Notice required, *inter alia*, an executed oath or declaration and a surcharge. A petition under 37 CFR 1.47(b) was filed February 20, 2004 and dismissed May 14, 2004.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee;(4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to

preserve the rights of the parties or to prevent irreparable damages.

The instant petition lacks requirement (1) set forth above.

As to item (1), petitioner has failed to establish that inventor Gopal Raghavan cannot be reached or located for presentation of the application papers (specification, claims, drawings, and oath or declaration). Petitioner alleges that the application papers were sent to the last known address of the non-signing inventor but that the package containing the application papers was returned as undeliverable. The petition also indicates attempt to locate the inventor via the internet was unsuccessful.

Where inability to reach or locate a non-signing inventor is alleged, petitioner is required to establish that diligent effort was made to locate the non-signing inventor, and provide the non-signing inventor with a complete copy of the patent application (**specification, including claims, drawings, and oath or declaration)**. While, petitioner alleges the non-signing inventor cannot be located, please note that a cursory review of the Lexis®.com EZFIND Combined Person Locator Nationwide database indicates Gopal Raghavan, previously of 517 Oakbury Court, Thousand Oaks, California 91360, has more recently resided at 2460 McCrea Road, Thousand Oaks, CA 91362-1122.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts, which are relied on to establish that a *diligent effort* was made to locate the inventor. A person having firsthand knowledge of the facts recited therein must sign the statement of facts, where at all possible. Statements based on hearsay, will not normally be accepted. At the very least, a more exhausting search of the internet and telephone directories should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306

By hand: Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Please be advised that on or about September 28, 2004 the undersigned may be reached by contacting the Office of Petitions at the newly established telephone number of (571) 272-3282.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Raghavan, et al. : DECISION GRANTING STATUS
Application No. 10/666,532 : UNDER 37 CFR 1.47(b)
Filed: September 19, 2003 :
Atty. Dkt. No.: B-3996NP621226-5 :
For: SYMMETRIC PLANAR INDUCTOR :

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed September 27, 2004.

The petition is **GRANTED**.

Petitioner has shown that inventors Gopal Raghavan and Michael G. Case 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 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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HELLER EHRMAN, LLP
4350 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO, CA 92122

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Stuart Mohr, et al.	:	
Application No. 10/666,536	:	DECISION ON PETITION
Filed: September 19, 2003	:	TO WITHDRAW
Attorney Docket No. 39228-0016	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Heller Ehrman, LLP has been revoked by the assignee of the patent application on September 9, 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 undersigned at 571-272- 1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHT FLOOR
SAN FRANCISCO, CA 94111-3834

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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CRAWFORD MAUNU
1270 NORTHLAND DRIVE
SUITE 390
ST. PAUL, MN 55120

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OCT 15 2003

OFFICE OF PETITIONS

In re Application of :
Berman et al : DECISION GRANTING
Application No. 10/666,538 : PETITION
Filed: September 19, 2003 :
Attorney Docket No. KING.005C1 :

This is a decision on the petition under 37 CFR 1.10(d), filed October 2, 2003, requesting that the above-identified application be accorded a filing date of September 19, 2003, rather than the presently assigned filing date of September 12, 2003.

Applicants request the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on September 19, 2003, pursuant to the requirements of 37 CFR 1.10. In support, applicants provided, inter alia, a copy of Express Mail label No. EL981390484US bearing a handwritten "date-in" of September 12, 2003, and a USPS receipt stamp dated September 19, 2003. In further support, applicants provided a USPS sales receipt, which clearly shows that the package in question was accepted for deposit on September 19, 2003. The same Express Mail receipt number is shown to have been placed on the original application transmittal letter submitted with the application.

Further, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on September 19, 2003 at the Saint Paul, MN USPS. Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on September 19, 2003. Accordingly, the instant application is entitled to a filing date of September 19, 2003, and has been so accorded.

The petition is granted.

No petition fee is required and none has been charged.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Joseph Pugh
TriQuint Semiconductor, Inc.
2300 NE Brookwood Parkway
Hillsboro OR 97124

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JAN 14 2010

In re Application of	:	
Thomas R. Apel	:	
Application No. 10/666,542	:	DECISION ON PETITION
Filed: September 19, 2003	:	
Attorney Docket No. TRQ-12923	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 24, 2009, 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 May 12, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center 2815 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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September 2005

VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20045-9998

SEP 0 7 2005

In re Application of:
JOHN SOHL ET AL.
Serial No.: 10/666,547
Filed: 22 September 2003
Docket: 36507-193186

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(c) [ENVIRONMENT]

This is a decision on the petition filed on May 11, 2005, to make the above-identified application special as benefiting environmental quality under the procedure set forth in MPEP § 708.02(V) in accordance with 37 C.F.R. § 1.102(c).

The petition to make the application special is **DISMISSED**.

In support of the petition, petition provides a statement by the attorney/agent registered to practice stating that use of the invention allows (1) enhancement of an environmental quality by more accurately and rapidly measuring the extent of environmental damage

For accelerated examination under MPEP § 708.02(V) in accordance with 37 C.F.R. § 1.102(c), a satisfactory statement explaining how the invention contributes to the restoration or maintenance of one of the basic life-sustaining natural elements, i.e.; air, water, or soil.

Section V is limited to "restoration or maintenance"; improved detection of contamination is not a direct restoration or positive maintenance of air, water, or soil. While most improvements in sensors may be considered as related to restoration or maintenance of air, water, or soil, such improvements are only tangential to "restoration or maintenance." Advanced prosecution under section V is a commitment by the Office to devote extra resources to expedite the examination of inventions related to promising technology, and is reserved for inventions that contribute to the restoration or maintenance of the elements. Inventions having only a tangential relationship to the restoration or maintenance of the elements will not, in order preserve the limited resources of the Office, be treated as special.

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely.

Any 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

SPE: T (Tran H) Ha Nguyen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/16/07

Paper No.: _____

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction for Appl. No.: 7221171 Patent No.: 10/666,547

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

TH Nguyen — 2829

SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

February 24, 2005

Jeffrey C. Wilk
The Eclipse Group
26895 Aliso Creek Road, B-104
Aliso Viejo, CA 92656-5301

In re Application of:
Vyas, et al
Serial No: 10/666,551 On Petition
Filing Date: September 18, 2003
For: PARTIAL ALMANAC COLLECTION SYSTEM

In response to the petition received by fax on January 7, 2005, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Non Provisional Application mailed December 12, 2003. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned February 13, 2004. The notice of abandonment was mailed on November 10, 2004.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing part of Nonprovisional Application mailed December 12, 2003.

Enclosed is a new Notice to File Missing Parts giving counsel 2 months from the date of the notice to respond.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

Enclosure: 1

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

February 24, 2005

Jeffrey C. Wilk
The Eclipse Group
26895 Aliso Creek Road, B-104
Aliso Viejo, CA 92656-5301

In re Application of:
Vyas, et al
Serial No: 10/666,551 On Petition
Filing Date: September 18, 2003
For: PARTIAL ALMANAC COLLECTION SYSTEM

In response to the petition received by fax on January 7, 2005, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Non Provisional Application mailed December 12, 2003. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned February 13, 2004. The notice of abandonment was mailed on November 10, 2004.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing part of Nonprovisional Application mailed December 12, 2003.

Enclosed is a new Notice to File Missing Parts giving counsel 2 months from the date of the notice to respond.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

Enclosure: 1

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 145
Alexandria, VA 22313-1450
www.uspto.gov

OCT 11 2005

VENABLE LLP
P.O. Box 34385
Washington, DC 20045-9998

In re application of
John H. Sohl, III et al
Application No. 10/666,557
Filed: September 22, 2003
For: SMART DATA SUBSURFACE DATA REPOSITORY SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ENVIRONMENTAL QUALITY)**
:

This is a decision on the petition submitted on May 11, 2005, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by statements under 37 CFR 1.102 by applicants or their attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

Applicants' invention relates to a process of assessing the environmental damage to a site as well as improving the accuracy of the assessment. The petition states, "the present invention permits the site owner and project manager to make timely decisions as they guide investigations, remediation and monitoring efforts."

This statement is insufficient to grant a petition 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 V: Environmental Quality. In this regard, without some details setting forth how and in what manner applicants' invention functions to permit the maintenance or restoration of the basic life-sustaining elements-air, water and/or soil the petition is insufficient.

The petition to make special based on Environmental Quality is **DISMISSED.**

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicants should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/jwk: 9/7/05

OIPE JC17
MAY 11 2005
PATENT & TRADEMARK OFFICE

Docket No.: 36507-193188
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Sohl et al.

Application No.: 10/666558 | Confirmation No.: 5541

Filed: September 22, 2003 | Art Unit: 1744

For: ENHANCED SUBSURFACE SCANNING SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT | Examiner: Not Yet Assigned

PETITION TO MAKE SPECIAL
UNDER 37 CFR 1.102(c)

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Submitted herewith is a Petition to Make Special the above-identified patent application. The basis of this Petition is that the invention will materially enhance the quality of the environment.

In particular, the invention provides an enhanced scanning solutions module including a flow control subsystem; a detector subsystem coupled to the flow control subsystem; a dryer/moisture separator subsystem coupled to the flow control subsystem; a sampling subsystem coupled to the flow control subsystem; and a software control subsystem coupled to the flow control subsystem, the detector subsystem, the dryer/moisture separator subsystem, or the sampling subsystem. The module can include a sampling subsystem having: a sample loop; an absorbent trap; or a gas chromatography injection port. The module can further include an exhaust; a pneumatic supply; a power supply; a bypass module; a feedback signal; or a pressure control

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700
MAY 25 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

PTT LLC (D/B/A/ HIGH 5 GAMES)
1200 MacARTHUR BOULEVARD
MAHWAH, NJ 07430

COPY MAILED

MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Daniel M. Marks et al :
Application No. 10/666,560 : DECISION DISMISSING PETITIONS
Filed: September 22, 2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 110293.134 US1 :

This is a decision on the petition treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 31, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications noted in the petition.

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)(iii) and 1.78(a)(5)(i) and 1.78(a)(5)(iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with items (1) and (3).

It appears that petitioner is seeking to claim priority to nonprovisional Application No. 10/438,325 and provisional Application No. 60/380,325, which applications were not previously claimed. However, the claim for benefit of priority as drafted is unacceptable and, therefore, is not considered a proper reference. In this regard, the claim for benefit of priority is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the

claim for priority) must commence on a separate physical sheet. The rule at 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. It also appears that a previous claim for priority was made to provisional Application No. 60/412,012. Therefore, if petitioner still desires to claim priority to this prior-filed provisional application, the amendment should also include this application. The claim for priority may also be made in a signed Supplemental Application Data Sheet. *See* 37 CFR 1.76(b) and 37 CFR 1.33(b).

As to item (3) above, the statement of unintentional delay is unacceptable for two reasons. In this regard, the statement reads: "Applicants state that the entire delay between the date the claim was due under MPEP Appendix R §1.55(a)(1) and the date of this Petition was unintentional." As the rule at 37 CFR 1.55(a)(1) pertains to a claim for benefit of priority to a foreign application, this statement is incorrect. The statement should read: "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."

A renewed petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), along with either a signed Supplemental Application Data Sheet or an amendment complying with the provisions of 37 CFR 1.121, must be submitted to correct the above matters.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

1200 MACARTHUR BLVD
MAHWAH, NJ 07430
201.825.1711
201.825.1611
WWW.HIGH5GAMES.COM

HIGH 5 GAMES

Fax

To:	MS. FRANCES HICKS	**From:**	DANIEL MARKS
Fax:	571.273.8300	**Pages:**	10 + cover sheet
Phone:	571.272.318	**Date:**	March 29, 2007
Re:	10/666,560	**cc:**	

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

ATTN: OFFICE OF PETITIONS

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission 10

Application Number	10/666,560
Filing Date	09/22/2003
First Named Inventor	DANIEL M. MARKS
Art Unit	3714
Examiner Name	RONALD LANEAU
Attorney Docket Number	110293.134US1

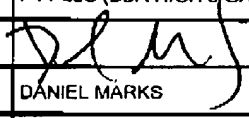
ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/ Incomplete Application
  - ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☑ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☐ Other Enclosure(s) (please identify below):

Remarks

RENEWED PETITION WITH ATTACHED SUPPLEMENTAL APPLICATION DATA FORM

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	PTT LLC (DBA HIGH 5 GAMES)		
Signature			
Printed name	DANIEL MARKS		
Date	MARCH 23, 2007	Reg. No.	

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

DOCKET NO. 110293.134US1

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	MARKS, ET AL.	Examiner:	Ronald Laneau
Serial No.:	10/666,560	Art Unit:	3714
Filed:	September 22, 2003		
Title:	METHOD OF PLAYING A SLOT MACHINE ("RE-SPIN & RE-PAY")		

RENEWED PETITION

Honorable Commissioner for Patents

Alexandria, VA 22313

Sir or Madam:

In response to the Decision Dismissing Petitions Under 37 CFR 1.78(a)(3) and (a) (6), dated March 19, 2007, Applicants for the present application respectfully submit this renewed petition along with Supplemental Application Data Sheet.

Applicants submit the Supplemental Application Data Sheet to claim priority to US Non-Provisional Application No. 10/438,325 and US Provisional Application No. 60/380,325, which applications were not previously claimed. Applicant also includes the previous claim for priority to US Provisional Application No. 60/412,012.

Applicants state 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.

If there is any matter that would delay the acceptance of this renewed petition, please contact the undersigned at your earliest convenience.

Respectfully submitted,

Daniel M. Marks

Date: 3/29/07

HIGH 5 GAMES

1200 MacArthur Blvd

Mahwah, NJ 07430

Phone: (201) 825.1711

Fax: (201) 825.1611

PAGE 4/11 * RCVD AT 3/29/2007 4:48:16 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/3 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-40

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Supplemental Application Data Sheet

[CHANGES TO ORIGINAL APPLICATION DATA SHEET ARE INDICATED WITH UNDERLINED TEXT.]

Attorney Docket Number:	110293.134 US1
Filing Date:	09/22/03
Application Number:	10/666,560
Title of Invention:	METHOD OF PLAYING A SLOT MACHINE ("RE-SPIN & RE-PAY")

Applicant Information

Applicant 1

Applicant Authority:	INVENTOR
Given Name:	DANIEL
Middle Name:	MORDECAI
Family Name:	MARKS
Residency Address of Applicant:	
City:	COLD SPRING
State/Province:	NY
Country of Residence:	USA
Citizenship under 37 CFR 1.41(b):	USA
Mailing Address of Applicant:	
Address 1:	1200 MACARTHUR BLVD
Address 2:	SUITE 240
City:	MAHWAH
State/Province:	NJ
Postal Code:	07430
Country:	USA

PAGE 5/11 * RCVD AT 3/29/2007 4:48:16 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/3 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-40

Applicant 2

Applicant Authority:	INVENTOR
Given Name:	ANTHONY
Middle Name:	MARK
Family Name:	SINGER
Residency Address of Applicant:	
City:	RAMSEY
State/Province:	NJ
Country of Residence:	USA
Citizenship under 37 CFR 1.41(b):	USA
Mailing Address of Applicant:	
Address 1:	1200 MACARTHUR BLVD
Address 2:	SUITE 240
City:	MAHWAH
State/Province:	NJ
Postal Code:	07430
Country:	USA

Applicant 3

Applicant Authority:	INVENTOR
Given Name:	HOWARD
Middle Name:	MITCHELL
Family Name:	MARKS
Residency Address of Applicant:	
City:	SCARSDALE
State/Province:	NY
Country of Residence:	USA
Citizenship under 37 CFR 1.41(b):	USA

PAGE 6/11 * RCVD AT 3/29/2007 4:48:16 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/3 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-40

Mailing Address of Applicant:

Address 1:	1200 MACARTHUR BLVD
Address 2:	SUITE 240
City:	MAHWAH
State/Province:	NJ
Postal Code:	07430
Country:	USA

Correspondence Information

Customer Number:	000061302
Email Address:	DMARKS@H5G.COM

Application Information

Title of the Invention:	METHOD OF PLAYING A SLOT MACHINE ("RE-SPIN & RE-PAY")
Attorney Docket Number:	110293.134 US1
Small Entity Status Claimed:	NO
Application Type:	NON-PROVISIONAL
Subject Matter:	UTILITY
Suggested Class (if any):	
Sub Class (if any):	
Suggested Technology Center (if any):	
Total Number of Drawing Sheets (if any):	
Suggested Figure for Publication (if any):	

PAGE 7/11 * RCVD AT 3/29/2007 4:48:16 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/3 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-40

Representative Information

Customer Number: 61302

Domestic Priority Information

Application Number: THIS APPLICATION

Continuity Type: CONTINUATION-IN-PART

Prior Application Number: 10/438,325

Filing Date (YYYY-MM-DD): MAY 15, 2003

Application Number: 10/438,325

Continuity Type: NON-PROVISIONAL OF

Prior Application Number: 60/380,485

Filing Date (YYYY-MM-DD): MAY 15, 2002

Application Number: THIS APPLICATION

Continuity Type: NON-PROVISIONAL OF

Prior Application Number: 60/412,012

Filing Date (YYYY-MM-DD): SEPTEMBER 20, 2002

Assignee Information

Organization Name: PTT LLC DBA HIGH 5 GAMES

Address 1: 1200 MACARTHUR BLVD

Address 2: SUITE 240

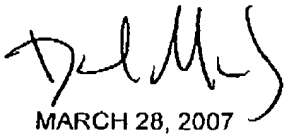
City: MAHWAH

State/Province: NJ

PAGE 8/11 * RCVD AT 3/29/2007 4:48:16 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/3 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-40

Country:	USA
Postal Code:	07430
Phone Number:	201 825 1711
Fax Number:	201 825 1611
Email Address:	DMARKS@H5G.COM

Signature::

Signature:	
Date (YYYY-MM-DD):	MARCH 28, 2007
First Name:	DANIEL
Last Name:	MARKS
Registration Number:	N/A

PAGE 9/11 * RCVD AT 3/29/2007 4:48:16 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/3 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-40

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www.uspto.gov

PTT LLC (D/B/A/ HIGH 5 GAMES)
1200 MacARTHUR BOULEVARD
MAHWAH, NJ 07430

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MAR 1 9 2007

OFFICE OF PETITIONS

In re Application of :
Daniel M. Marks et al :
Application No. 10/666,560 : DECISION DISMISSING PETITIONS
Filed: September 22, 2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 110293.134 US1 :

This is a decision on the petition treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 31, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications noted in the petition.

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)(iii) and 1.78(a)(5)(i) and 1.78(a)(5)(iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with items (1) and (3).

It appears that petitioner is seeking to claim priority to nonprovisional Application No. 10/438,325 and provisional Application No. 60/380,325, which applications were not previously claimed. However, the claim for benefit of priority as drafted is unacceptable and, therefore, is not considered a proper reference. In this regard, the claim for benefit of priority is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the

claim for priority) must commence on a separate physical sheet. The rule at 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. It also appears that a previous claim for priority was made to provisional Application No. 60/412,012. Therefore, if petitioner still desires to claim priority to this prior-filed provisional application, the amendment should also include this application. The claim for priority may also be made in a signed Supplemental Application Data Sheet. *See* 37 CFR 1.76(b) and 37 CFR 1.33(b).

As to item (3) above, the statement of unintentional delay is unacceptable for two reasons. In this regard, the statement reads: "Applicants state that the entire delay between the date the claim was due under MPEP Appendix R §1.55(a)(1) and the date of this Petition was unintentional." As the rule at 37 CFR 1.55(a)(1) pertains to a claim for benefit of priority to a foreign application, this statement is incorrect. The statement should read: "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."

A renewed petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), along with either a signed Supplemental Application Data Sheet or an amendment complying with the provisions of 37 CFR 1.121, must be submitted to correct the above matters.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PTT LLC (D/B/A/ HIGH 5 GAMES)
1200 MacARTHUR BOULEVARD
MAHWAH, NJ 07430

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OFFICE OF PETITIONS

In re Application of :
Daniel M. Marks et al :
Application No. 10/666,560 : DECISION DISMISSING PETITIONS
Filed: September 22, 2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 110293.134 US1 :

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 29, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications noted in the accompanying Supplemental Application Data Sheet.[1]

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)(iii) and 1.78(a)(5)(i) and 1.78(a)(5)(iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the above requirements, which requirements were met prior to issuance of this application into a patent. However, in view of the issuance of this application into Patent No. 7,252,589 on August 7, 2007, and as the claim for priority to the nonprovisional and provisional applications did not appear on the patent as issued, a Certificate of Correction (and $100 fee) is required before the petition can be granted. The form for the Certificate of Correction may be found under Forms on the USPTO Website.

[1] The existence of this renewed petition was only recently discovered. As this petition was miscoded, this petition did not come to the attention of the undersigned until recently.

A renewed petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), along with request for a certificate of correction and fee of $100, must be submitted before the petition can be granted.

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

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

JAMES M. HESLIN
TOWNSEND and TOWNSEND and CREW LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUL 2 9 2005

OFFICE OF PETITIONS

In re Application of :
Ned S. Rasor et al. :
Application No. 10/666,562 : DECISION ON PETITION
Filed: September 17, 2003 : 37 CFR 1.137(b)
Attorney Docket No. 020017-000430US :

This is a decision on the petition under 37 CFR §1.137(b), filed February 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed December 12, 2003. The Notice set a period for reply of two months from the mail date of the Notice. No extensions of time have been obtained pursuant to the provisions of 37 CFR §1.136(a). The date of abandonment of this application is February 13, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the reply (oath, filing fee and surcharge); (2) the petition fee of $750.00 (for a small entity); and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed December 12, 2003 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

The application is being referred to the Office of Initial Patent Examining for appropriate action on the concurrently filed reply.

Karen Creasy for
Brian Hearn
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

Peter A. Nieves
Hayes Soloway P.C.
175 Canal Street
Manchester NH 03101

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of
Morris, et al.
Application No. 10/666,563
Filed: September 19, 2003
Attorney Docket No. 14920/67705

For: METHODS FOR COATING SURFACES WITH METAL AND PRODUCTS MADE THEREBY

DECISION GRANTING PETITION UNDER 37 CFR 1.137(f)

This is a decision on the petition, filed April 26, 2005, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioners state that the instant nonprovisional application is the subject of an application filed in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing on January 6, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of September 8, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230.

This application is being forwarded to Technology Center Art Unit 1773's technical support staff for processing the amendment filed April 29, 2005 (certificate of mailing date April 27, 2005).

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/666,563	09/19/2003	Joan Morris	14920/67705

CONFIRMATION NO. 5536

Peter A. Nieves
Hayes Soloway P.C.
175 Canal Street
Manchester, NH 03101

OC000000016163499

Date Mailed: 06/01/2005

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 09/08/2005.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DIW Feb-08

PAUL D. GREELEY, ESQ.
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
10TH FLOOR
ONE LANDMARK SQUARE
STAMFORD CT 06901-2682

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FEB 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Saenger et al.	:	
Application Number: 10/666564	:	DECISION ON PETITION
Filing Date: 09/19/2003	:	
Attorney Docket Number:	:	
YOR90030274US1	:	

This is a decision on the petition filed on September 21, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on August 30, 2007, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on May 29, 2007, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on September 21, 2007.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the issue and publication fees filed with the present petition is acknowledged.

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.

This application is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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SEP 14 2004

In re Application of	:	
Adam Awad	:	DECISION ON PETITION
Application No. 10/666,578	:	
Filed: September 17, 2003	:	
Attorney Docket No. Awad.A-08	:	

This is a decision on the petition to make special filed on April 21, 2004. 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 section 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 3747 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

Gene Scott; Patent Law & Venture Group
3140 Red Hill Avenue
Suite 150
Costa Mesa, CA 92626-3440

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JUN - 3 2005

Philip G. Meyers Law Office
1009 Long Prairie Road, Suite 302
Flower Mound, TX 75022

In re application of Steven W. Wentworth et al. Application No. 10/666,592 Filed: September 19, 2003 For: WINCH WITH TELESCOPING MAST	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed February 18, 2005 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.

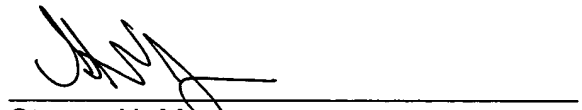
MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method 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 February 18, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on February 18, 2005.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/pav: 06/02/05

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BROWN & MICHAELS, PC
400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA, NY 14850

Mail Date: 04/20/2010

Applicant	: Hurbert Lobo	: DECISION ON REQUEST FOR
Patent Number	: 7613700	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/666,601	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **697** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/666,628	09/18/2003	1623	512	07917-227001 / UMMC 03-21	16	28	1

CONFIRMATION NO. 9233

26161
FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

CORRECTED FILING RECEIPT

OC000000015927179

Date Mailed: 05/03/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Biliang Zhang, Shrewsbury, MA;

Power of Attorney:

J Fasse--32983
Todd Garcia--54112

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/411,649 09/18/2002

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 US10/666,628

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

BEST AVAILABLE COPY

Title

Synthesis and applications of trinucleotide pCpCpA-3'-NH-aminoacyl derivatives

Preliminary Class

514

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 14 2005

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

In re Application of	:	
GHOLAM A. PEYMAN	:	
Serial No.: 10/666,629	:	PETITION TO MAKE SPECIAL
Filed: 18 September 2003	:	
Attorney Docket No.: PMAN-24	:	

This is in response to applicant's petition filed on 02 June 2005, to make the above-identified application special under the provisions 37 CFR 1,102(c), based on the age of applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there by any questions with regard to this letter please contact Julie Burke by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 572-272-0512 or by facsimile transmission to the general Office facsimile number.

Marianne Seidel
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Gholam Peyman :
Application No. 10/666,629 :
Filed: September 18, 2003 :
Attorney Docket No. PMAN / 24 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 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 September 20, 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). On April 11, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $395 and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1618 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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JUN 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Paul S. Rago et al	:	
Application No. 10/666,641	:	ON PETITION
Filed: September 18, 2003	:	
Attorney Docket No. 78781P036	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 28, 2005, and supplemented on April 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed November 16, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 17, 2005.

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

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JAN 11 2010

DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

In re application of	:	**DECISION ON PETITION TO**
Richard S. Duncan, et al.	:	**EXPUNGE INFORMATION**
Application No. 10/666,657	:	**UNDER 37 CFR § 1.59**
Filed: September 19, 2003	:	
For: **BAFFLED ATTIC VENT**	:	

This is a decision on the petition under 37 CFR 1.59(b), filed February 27, 2007, to expunge information from the above identified application.

The petition is **GRANTED**.

Applicants request that documents A-I entitled Proprietary Information under 37 CFR 1.56 and MPEP 724 and 724.02, filed in the Information Disclosure Statement on September 19, 2003 be expunged from the record. Applicants state that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protected order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtains its return would cause irreparable harm to the party who submitted the information or to the party of interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The information in question has been determined by the undersigned not to be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material cannot be returned since it is now part of an electronic file wrapper. The expunged material has been "closed", however, so that it is no longer viewable in the electronic file wrapper.

Any questions regarding this letter should be directed to Supervisory Patent Examiner Richard Chilcot at (571) 272-6777.

Katherine Matecki

Katherine A. Matecki, Director
Patent Technology Center 3600
(571) 272-5250

rc/lm: 12/22/09

LM

DEC 30 2003
PATENT & TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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Washington, D.C. 20231 DIW 03-00

Paper No. 14

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

MCKINNEY & STRINGER, P.C.
CORPORATE TOWER
101 NORTH ROBINSON, SUITE 1300
OKLAHOMA CITY, OK 73102-5504

In re Application of :
Hessert, Wallace, DeLong, and Neef :
Application No. 08/969,680 : DECISION ACCORDING STATUS
Filed: 13 November, 1997 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 80551-0004 :

This is in response to the "Request for Reconsideration of Petition under 37 CFR 1.47(a)," filed on 12 October, 1999.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), 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.

This application file is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Douglas I. Wood at 703/308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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Washington, D.C. 20231 DIW 03-00

Paper No. 15

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SPECIAL PROGRAMS OFFICE
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James E. Hessert
9703 E. 75th Street, #837
Tulsa, OK 74133

In re Application of
Hessert et al.
Application No. 08/969,680
Filed: 13 November, 1997
For: Method and Composition for Forming Water Impermeable Barrier

Dear Mr. Hessert:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Douglas I. Wood at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

MCKINNEY & STRINGER, P.C.
CORPORATE TOWER
101 NORTH ROBINSON, SUITE 1300
OKLAHOMA CITY, OK 73102-5504

PET DEC

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VP
PAPER NO. ___

MAR 31 2004

In re Application of
Ralph C. Struthers et al.
Serial Number: 10/666,663
Filed: September 18, 2003
For: STORAGE DEVICE AND METHOD FOR SORPTION AND DESORPTION OF MOLECULAR GAS CONTAINED BY STORAGE SITES OF NANO-FILAMENT LADED RETICULATED AEROGEL

PETITION UNDER
M.P.E.P.708.02 V

This is in response to the petition filed September 18, 2003 requesting that the above-identified application be granted Special Status under Section 708.02 V of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 V is granted because the 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

MacPherson, Kwok Chen & Heid LLP
Suite 226
1762 Technology Drive
San Jose CA 95110

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XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

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JUN 14 2006

OFFICE OF PETITIONS

In re Application of :
Tim Tuan, et al. :
Application No. 10/666,669 : ON PETITION
Filed: September 19, 2003 :
Attorney Docket No.: X-1462 US :

This is a decision on the petition, filed June 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 May 18, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2819 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 07/14/2010

Applicant	: Hongqin Shi	: DECISION ON REQUEST FOR
Patent Number	: 7645704	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/666,671	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **272** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Commissioner for Patents
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JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM NC 27707

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OFFICE OF PETITIONS

In re Application of :
Eric S. Reindal :
Application No. 10/666,680 : ON PETITION
Filed: September 18, 2003 :
Attorney Docket No. 1135/27/2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 31, 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 September 01, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $ 810, and the submission required by 37 CFR 1.114; (2) the petition fee of $ 1540; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $ 1050 three (3) month extension of time fee submitted with the reply on June 13, 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 Karin Reichle at (571) 272-6051.

This application is being referred to Technology Center AU 3774 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.

David Bucei
Petitions Examiner
Office of Petitions

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Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of :
Leonard R. Speiser, et al. :
Application No. 10/666,681 : DECISION ON PETITION
Filed: September 18, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 3801P093

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 27, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on September 18, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/482,605 which was filed on June 25, 2003, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/482,605 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

37 CFR 1.78(a)(6) requires 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. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.78(a)(6), the statement is being construed as the statement required by 37 CFR 1.78(a)(6) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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 Marianne Jenkins at (571) 272-3223.

The application is being referred to Technology Center AU 1775 for appropriate action on the amendment submitted August 27, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/482,605.

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/666,682	09/19/2003	3722	375	ENGEL-33	4	10.	2

CONFIRMATION NO. 8254

Pandiscio & Pandiscio
470 Totten Pond Road
Waltham, MA 02451

CORRECTED FILING RECEIPT

OC000000011838761

Date Mailed: 02/23/2004

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)

Fritz Rehm, Oberteuringen, GERMANY;

Assignment For Published Patent Application

SMW-Autoblok Spannsysteme GmbH;

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 102 47 154.1 10/09/2002

If Required, Foreign Filing License Granted: 12/11/2003

Projected Publication Date: 05/20/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Power-operated chuck or the like

Preliminary Class

279

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Carmen Patti Law Group , LLC
ONE N. LASALLE STREET
44TH FLOOR
CHICAGO, IL 60602

Mail Date: 04/21/2010

Applicant	: Robert J. Nealon	: DECISION ON REQUEST FOR
Patent Number	: 7573869	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/666,684	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1148** 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 : January 19, 2006

TO SPE OF : ART UNIT 2672

SUBJECT : Request for Certificate of Correction on Patent No.: 6,963,339 / Appl.10666704

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☒ **Denied**	State the reasons for denial below.

Comments:

Proposed amendment changes claim scope. No such change in record.

Ulka Chauhan — **SPE**

2628 — **Art Unit**

DO NOT ENTER EN 8/8/06 10/666704

Cope

MYERS BIGEL SIBLEY & SAJOVEC, P.A.

PATENT LAWYERS

OIPE IAP68 JAN 09 2006 PATENT & TRADEMARK OFFICE

E. Randal Ayers	Anna R. Carr[1]	Shawna C. Lemon, Ph.D.	Julie H. Richardson
David D. Beatty	Robert N. Crouse	Karen A. Magri, Ph.D.	Rohan G. Sabapathypillai
Mitchell S. Bigel	Robert W. Glatz	Robert M. Meeks	F. Michael Sajovec
Needham J. Boddie, II	David C. Hall	Mary L. Miller, Ph.D.	Grant J. Scott
Alice M. Bonnen, Ph.D.	Scott C. Hatfield	D. Scott Moore	Kenneth D. Sibley
Lynne A. Borchers	Lori W. Herman, Ph.D.	James D. Myers	Elizabeth A. Stanek
James R. Cannon	Laura M. Kelley	David K. Purks	Richard P. Vitek

January 4, 2006

Mr. Abdi Dirie
IBM Corporation
Intellectual Property Law Department
333 John Carlyle Street, Suite 635
Alexandria, VA 22314

RE: U.S. Patent No. 6,963,339; Issued November 8, 2005
Filtering Tree Map Data for Tree Map Visualization
IBM Docket No. RSW920030118US1; Our File: 5577-279

Dear Abdi:

We have proofread the above-referenced patent and noted defects in the patent as issued. Attached please find a request for Certificate of Correction as filed on January 4, 2006 with the United States Patent and Trademark Office to correct these defects.

If you should have questions, please do not hesitate to contact us.

Best regards.

Sincerely,

David K. Purks

Certificate JAN 11 2006 of Correction

DKP:mlc
Enclosure
cc: Mr. Gerald R. Woods (w/ enc.)

JAN 12 2006

Mailing Address:
PO Box 37428
Raleigh, NC 27627

P: (919) 854-1400
F: (919) 854-1401
Int'l: + 1 919 854 1400

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4140 Parklake Ave.
Suite 600
Raleigh, NC 27612

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SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Hiroki Kanai, et al. :
Application No.: 10/666,709 : ON PETITION
Filed: September 19, 2003 :
Attorney Docket No.: 16869K-095200US :

This is a decision on the petition, filed February 6, 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 January 18, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2188 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

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 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

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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DEC 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Gady et al.	:	
Application No.: 10/666712	:	DECISION ON
Filing or 371(c) Date: 09/18/2003	:	PETITION
Attorney Docket Number:	:	
60,130-1890; 00MRA0574	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 6, 2007, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed July 9, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned October 10, 2007. A Notice of Abandonment was mailed November 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and the publication fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

This application is being referred to Publishing Division for processing into a patent.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Thomas P. Liniak
Liniak, Berenato & White
Suite 240
6550 Rock Spring Drive
Bethesda, MD 20817

COPY MAILED

OCT 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Ronald Lauber et al.	:	
Application No. 10/666,743	:	DECISION ON PETITION
Filed: September 22, 2003	:	TO WITHDRAW
Attorney Docket No. 7603.110	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas P. Liniak.

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed June 28, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JOHN WEARE
4891 BUCKBOARD WAY
EL SOBRANTE, CA 94803

COPY MAILED

MAY 20 2004

OFFICE OF PETITIONS

In re Application of: :
Quinn et al. :
Application No. 10/666,744 : LETTER
Filed: September 15, 2003 :
Title of Invention: :
METHOD FOR DETECTION OF MULTIPLE :
NUCLEIC ACID SEQUENCE VARIATIONS :

Dear Mr. Weare:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: GREGORY D. DeGRAZIA
HOWARD & HOWARD ATTORNEYS, P.C.
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-5151

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

REED & EBERLE LLP
800 MENLO PARK
SUITE 210
MENLO PARK, CA 94025

COPY MAILED

MAY 2 0 2004

OFFICE OF PETITIONS

In re Application of:
Quinn et al.
Application No. 10/666,744
Filed: September 15, 2003
Title of Invention:
METHOD FOR DETECTION OF MULTIPLE NUCLEIC ACID SEQUENCE VARIATIONS

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to a Petition under 37 CFR 1.47(a), filed April 6, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, John Weare, cannot be found or reached after diligent effort.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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CENTURY IP GROUP, INC. [Main]
P.O. BOX 7333
NEWPORT BEACH, CA 92658-7333

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OCT 2 1 2009

OFFICE OF PETITIONS

In re Application of :
Amit Haller, et al. :
Application No. 10/666,776 : DECISION ON PETITION
Filed: September 18, 2003 : TO WITHDRAW
Attorney Docket No. 1005-38-01 USP : 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 3, 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 request was signed by F. Jason Far-Hadian on behalf of all attorneys of record who are associated with customer No. 42698. All attorneys/agents associated with the Customer Number 42698 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

The application became abandoned for failure to timely respond to the outstanding Office action mailed January 22, 2009.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: IXI MOBILE (R&D), LTD
PO BOX 2543
17 HA 'TIDHAR ST
RA'ANANA 43665 ISRAEL

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/666,776	09/18/2003	Amit Haller	1005-38-01 USP

CONFIRMATION NO. 1541

POWER OF ATTORNEY NOTICE

42698
CENTURY IP GROUP, INC. [Main]
P.O. BOX 7333
NEWPORT BEACH, CA 92658-7333

Date Mailed: 10/13/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/03/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

OIPE JC42
JUN 24 2005
PATENT & TRADEMARK OFFICE

$170

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Goossens et al.

Serial No.: 10/666,778

Filed: September 18, 2003

For: THE USE OF GENES ENCODING MEMBRANE TRANSPORTER PUMPS TO STIMULATE THE PRODUCTION OF SECONDARY METABOLITES IN BIOLOGICAL CELLS

Confirmation No.: 8721

Examiner: To be assigned

Group Art Unit: 1638

Attorney Docket No.: 2676-6085US

CERTIFICATE OF MAILING

I hereby certify that this correspondence along with any attachments referred to or identified as being attached or enclosed is being deposited with the United States Postal Service as First Class Mail on the date of deposit shown below with sufficient postage and in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

June 22, 2005
Date

Betty Vowles
Signature

Betty Vowles
Name (Type/Print)

petition OK granted to enter
RLK
1638
8/7/2009

PETITION AND FEE TO ADD ORIGINAL ERRONEOUSLY NOT NAMED INVENTOR IN NONPROVISIONAL APPLICATION AND DECLARATION (37 C.F.R. § 1.48(a))

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This petition is to correct the incorrect original naming of inventors in the declaration under 37 C.F.R. § 1.48(a) as set forth and filed on September 18, 2003.

Please add the following previously unnamed persons as additional inventora of this application: Kirsi-Marja Oksman-Caldentey and Into J. Laakso.

06/27/2005 SHASSEN1 00000010 10666778
01 FC:1464 130.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
FROM DIRECTORS OFFICE

OCT 22 2004

TECHNOLOGY CENTER 3800

Stratton Ballew
213 S. 12th Avenue
Yakima, WA 98902

In re Application of:
Dennis L. Franz
Serial No. 10/666,800
Filed: September 18, 2003
For: COULOMB FORCE NEUTRALIZED FUSION REACTOR

DECISION ON PETITION TO MAKE SPECIAL (ENERGY)

This is a decision on the petition filed July 6, 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 VI: Energy.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition states that the present application "materially contributes to the development of energy resources" by "the controlled generation of electricity from a stream of ions by a nuclear fusion process. " And, "by disclosing a controlled and scalable fusion reaction."

These statements are insufficient to grant a petition 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 VI: Energy. In this regard, without some details setting forth how the invention functions to control generation of electricity from a stream of ions by a nuclear fusion process, the above statements are inadequate to establish for the record that the invention "materially contributes to the development of energy resources".

For the above stated reasons, the petition is **DISMISSED.**

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/rwg: 10/13/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAILED
FROM DIRECTORS OFFICE

JAN 21 2005

TECHNOLOGY CENTER 3600

Stratton Ballew
213 S. 12th Avenue
Yakima, WA 98902

In re application of : **DECISION ON PETITION**
Dennis L. Franz : **TO MAKE SPECIAL**
Application No. 10/666,800 : **(ENERGY)**
Filed: September 18, 2003 :
For: COULOMB FORCE NEUTRALIZED
FUSION REACTOR

This is a decision on the renewed petition filed December 20, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section VI: Energy.

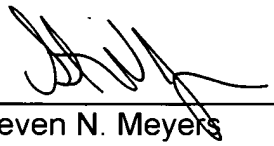
A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicants or their attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

Applicant states that "the fusion reactor of the above listed invention has a multiple of fuel rings that spin in a spiral form. The fusion reactor produces a sustainable, controlled fusion reaction producing more energy than it uses. The reactor employs a system of resonant magnetic fields that control the direction of the fuel particles' momentum and polarity, and neutralizes the interactive forces of the fuel particles linear Coulomb repulsions. The rotating ring has a geometric rate of radius reduction for ring stability and efficient fusion reaction. Preferably, a stream of lithium nuclei are utilized as fuel. In merging lithium nuclei within the controlled spiral of a resonant magnetic field, positive alpha charges are produced. These high-energy alpha charges are then directed into a generator for the purpose of pumping electrons to produce electricity."

For the above stated reasons, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/jwk: 1/4/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:052805

DATE : May 24, 2005

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction on Patent No.: 10/666,808

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Randy Gulakowski **Art Unit** 1712

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Office Of Counsel
Naval Undersea Warfare Center Division
Bldg 112T
1176 Howell Street
Newport RI 02841-1708

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MAY 26 2004

OFFICE OF PETITIONS

In re Application of	:	
Blackmon et al.	:	
Application No. 10/666,829	:	DECISION REFUSING STATUS
Filed: September 18, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 82985	:	

This is in response to the petition under 37 CFR 1.47(a), filed March 11, 2004. Applicants obtained a one month extension of time for reply. Accordingly, the petition is timely filed.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing 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 18, 2003, without an executed oath or declaration. Accordingly, on December 12, 2003, the Office mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration and a surcharge for its late filing.

In response, on March 11, 2004, applicants filed the present petition, a request for a one month extension of time to reply, and submitted the requisite fees. Additionally, applicants have demonstrated that joint inventor Mohamadreza M. Hagh has refused to sign the declaration as set forth in the Declarations of Facts of James M. Kasischke and Fletcher A. Blackmon.

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.

Applicants lack item (2) as set forth above.

As to item (2), the Office did not receive an executed oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 with the present petition. Upon filing a renewed petition, applicants must submit an oath or declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity and the mailing address of each inventor **and is signed by the signing inventors on behalf of the nonsigning, Mohamadreza M. Hagh.**

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

By mail: Commissioner for Patents
Mail Stop Petitions
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Office Of Counsel
Naval Undersea Warfare Center Division
Bldg 112T
1176 Howell Street
Newport RI 02841-1708

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JUL 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Blackmon et al. :
Application No. 10/666,829 : ON PETITION
Filed: September 18, 2003 :
Attorney Docket No. 82985 :

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 23, 2004.

In view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary. Accordingly, the petition is dismissed as involving a moot issue. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This file is being forwarded to Technology Center 3600.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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In re Patent No. 7021000
Issue Date: April 4,2006
Application No. 10666832
Filed: September 17,2003
Attorney Docket No. 8403.952

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 8,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 8,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
7021000	2006-04-04	10666832	2003-09-17	8403.952

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	/klhester/	Date (YYYY-MM-DD)	2010-04-09
Name	Kathryn L. Hester, Ph.D.	Registration Number	46768

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

PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON MA 02199

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JAN 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Segal et al.	:	
Application No. 10/666,833	:	DECISION ON PETITION
Filed: September 19, 2003	:	
Attorney Docket No. 11111/2003D	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 1648 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

MATTHEW BEAUDET
EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 09-04

Paper No: __

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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SEP 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Beal, et al. :
Application No. 10/666,838 : ON PETITION
Filed: 17 September, 2003 :
Attorney Docket No. 022010-000210US :

This is a decision on the petition filed on 27 June, 2005, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and 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 "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the instant application was filed on 17 September 2003, without, *inter alia*, a fully executed oath/declaration;

- on 26 November, 2004, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- on 27 June, 2005, Petitioner filed the instant petition and fee (and request and fee for extension of time) with, *inter alia*, a statement by Steven C. Peterson (Reg. No. 36,238), a statement of Leslie J. Sebastian, averred to be the president of Puronyx, Inc., which may be (but does not appear to be stated as) an/the assignee, along with an oath/declaration containing the signature of named co-inventors Beal, Krajecki, Blue, Hyman, Harrington and Tedesco (for themselves and on behalf of) but without the signature of named non-signing co-inventor Alan E. Jordan (Mr. Jordan), and an averment that Mr. Jordan's signature could not be obtained on the oath/declaration, however, there the evidence is clear that Petitioner submitted to the purported assignee and the purported assignee transmitted to Mr. Jordan only the oath/declaration and not the entire application (description, claims, abstract, drawings), as required, to be presented to the non-signing inventor.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has

> reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and
>
> (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, 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, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

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.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or

> in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

CONCLUSION

The record as it stands clearly evidences the failure to transmit the entire application (description, claims, abstract and drawings) to the non-signing inventor at current/valid (or at least last-known/ascertainable) addresses. The evidence of these requirements should be submitted with any renewed petition.

Out of an abundance of caution and because, *inter alia*, a property right is in question, Petitioner is requested to submit a copy of the transmittal letter with a renewed petition.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[2]

---

[1] See: MPEP 409.03(b).

[2] 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[3]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] 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

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JJGJR.: 01-06

Paper No: __

TOWNSEND AND TOWNSEND AND CREW, LLP
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SAN FRANCISCO CA 94111-3834

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of :
Beal, et al. :
Application No. 10/666,838 : ON PETITION
Filed: 17 September, 2003 :
Attorney Docket No. 022010-000210US :

This is a decision on the petition filed on 21 October, 2005, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED as moot**.

BACKGROUND

The record indicates:

- the instant application was filed on 17 September 2003, without, *inter alia*, a fully executed oath/declaration;

- on 26 November, 2004, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- on 27 June, 2005, Petitioner filed the original petition (and request and fee for extension of time) with, *inter alia*, a statement by Steven C. Peterson (Reg. No. 36,238), a statement of Leslie J. Sebastian, averred to be the president of Puronyx, Inc.–which did not appear to be stated as–an/the assignee, along with an oath/declaration containing the signature of named co-inventors Beal, Krajecki, Blue, Hyman, Harrington and Tedesco (for themselves and on behalf of) but without the signature of named non-signing co-inventor Alan E. Jordan (Mr. Jordan), and an averment that Mr. Jordan's signature could not be

obtained on the oath/declaration, however, the petition was dismissed on 9 September, 2005, because the evidence was clear that Petitioner submitted to the purported assignee and the purported assignee transmitted to Mr. Jordan only the oath/declaration and not the entire application (description, claims, abstract, drawings), as required, to be presented to the non-signing inventor;

- the instant petition avers that Mr. Jordan has joined in the oath/declaration and Petitioner presents a document he avers to contain the signature of Mr. Jordan.

In view of the joinder of the inventors, further consideration under Rule 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47 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 Rule 1.47(a).

CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot for joinder**.

This application is being released to OIPE for further processing as necessary before being returned to substantive examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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HUNTON & WILLIAMS LLP / SYMANTEC CORPORATION
INTELLECTUAL PROPERTY DEPT.
1900 K STREET, NW
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 04/21/2010

Applicant	: William E. Sobel	: DECISION ON REQUEST FOR
Patent Number	: 7594268	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/666,843	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **775** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

ROSEMARY AQUILA
607 72 STREET
NORTH BERGEN, NJ 07047

COPY MAILED

AUG 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Gert Sarlet, Peter Szabo, :
Curt Orbert and Torbjorn Nyman : DECISION REFUSING STATUS
Application No. 10/666,850 : UNDER 37 CFR 1.47(a)
Filing Date: September 18, 2003 :
Attorney Docket No. 1010.8131UU :
Title: METHOD FOR CHARACTERIZING :
TUNABLE LASERS :

This is a decision on the "PETITION SUBMITTED UNDER 37 CFR 1.47(a)," filed May 17, 2004 (certificate of mailing May 11, 2004).

The petition is **DISMISSED**.

Rule 47 applicants are 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 18, 2003, with an unexecuted declaration, missing the statutory basic filing fee and with additional claim fees due. Accordingly, on December 11, 2003, the Office mailed a "Notice to File Missing Parts of Application," requiring, inter alia, an executed oath or declaration and the surcharge under § 1.16(e) for its late filing. This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

Applicants replied with inter alia the instant petition under § 1.47; payment of the petition fee and of the late surcharge; and a declaration executed by joint inventor Curt Orbert on behalf of himself and on behalf of non-signing joint inventors Sarlet, Szabo and Nyman. This reply was made timely by an accompanying petition for an extension for response within the third month (and fee). Rule 47 applicant asserts that status under § 1.47 is proper because inventors Sarlet, Szabo and Nyman are unavailable to join in the application.

A grantable petition under 37 CFR § 1.47(a) requires: (1) an acceptable oath or declaration in compliance with 37 C.F.R.

§ 1.63 and 1.64 or 1.175; (2) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The petition included payment of the petition fee; a statement of facts intended to show unavailability of the non-signing inventors; and a statement of the last known addresses of the non-signing inventors.

The petition is not grantable because requirement (2) has not been satisfied. Petitioner states that the application papers were presented to all of the inventors by International Federal Express Delivery. Inventor Orbert submitted an executed declaration. No response was received from inventor Szabo. However, the Express Mail mailings to inventors Sarlet and Nyman were returned as undeliverable. It can be inferred that inventor Szabo's non-response constitutes a refusal to join in the application. However, no such inference can be made with respect to inventors Sarlet and Nyman.

Moreover, rule 47 applicant has not shown that inventors Sarlet and Nyman cannot be found or reached after diligent effort to be presented with all of the application papers. The petition does not include adequate evidence to support a conclusion that diligent efforts have been made to find or reach the inventors to have them join in this application. Having been unsuccessful in contacting the inventors by mail, there is no indication that Rule 47 applicant attempted to determine the inventors' forwarding addresses, and to send the application papers to those addresses for consideration. See MPEP 409.03(d). If attempts (reflecting diligence) to obtain a forwarding address or to locate the non-signing inventors by other means such as through E-mail, a new telephone number, or the Internet continue to fail, then applicants will have provided the necessary proof required under 37 CFR 1.47 that the inventor cannot be reached or found after diligent effort. Details of the efforts to locate the non-signing inventors should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details. Applicants should also submit documentary evidence such as the results of E-mail or Internet searches.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: Effective June 5, 2004, patent correspondence delivered by hand or delivery services, **other than the USPS**, to the Customer Window must be addressed as follows:

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop _____
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309 (or effective September 28, 2004 at (571) 272-3282).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

CARLSON, CASPERS, VANDENBURGH, LINDQUIST
225 SOUTH SIXTH STREET
SUITE 3200
MINNEAPOLIS, MN 55402

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AUG 1 0 2004

OFFICE OF PETITIONS

In re Application of Gert Sarlet, Peter Szabo, Curt Orbert and Torbjorn Nyman Application No. 10/666,850 Filing Date: September 18, 2003 Attorney Docket No. 1010.8131UU Title: METHOD FOR CHARACTERIZING TUNABLE LASERS	:	CORRECTED DECISION REFUSING STATUS UNDER 37 CFR 1.47(a) and NOTICE REGARDING CHANGE OF ADDRESS

This is a decision on the "PETITION SUBMITTED UNDER 37 CFR 1.47(a)," filed May 17, 2004 (certificate of mailing May 11, 2004).

This decision is corrected to the extent that it is being mailed to a corrected address. Applicants are advised that a change of address using the wrong Customer Number was filed in this application on March 17, 2004. Due to this error, this decision was originally mailed to the wrong address. The correspondence address of record has been changed to the address used in this decision. Further, action is required by applicants to associate the correct Customer Number with this application.

The petition is **DISMISSED**.

Rule 47 applicants are 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 18, 2003, with an unexecuted declaration, missing the statutory basic filing fee and with additional claim fees due. Accordingly, on December 11, 2003, the Office mailed a "Notice to File Missing Parts of Application," requiring, inter alia, an executed oath or declaration and the surcharge under § 1.16(e) for its late filing. This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

Applicants replied with inter alia the instant petition under § 1.47; payment of the petition fee and of the late surcharge; and a declaration executed by joint inventor Curt Orbert on

behalf of himself and on behalf of non-signing joint inventors Sarlet, Szabo and Nyman. This reply was made timely by an accompanying petition for an extension for response within the third month (and fee). Rule 47 applicant asserts that status under § 1.47 is proper because inventors Sarlet, Szabo and Nyman are unavailable to join in the application.

A grantable petition under 37 CFR § 1.47(a) requires: (1) an acceptable oath or declaration in compliance with 37 C.F.R. § 1.63 and 1.64 or 1.175; (2) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The petition included payment of the petition fee; a statement of facts intended to show unavailability of the non-signing inventors; and a statement of the last known addresses of the non-signing inventors.

The petition is not grantable because requirement (2) has not been satisfied. Petitioner states that the application papers were presented to all of the inventors by International Federal Express Delivery. Inventor Orbert submitted an executed declaration. No response was received from inventor Szabo. However, the Express Mail mailings to inventors Sarlet and Nyman were returned as undeliverable. It can be inferred that inventor Szabo's non-response constitutes a refusal to join in the application. However, no such inference can be made with respect to inventors Sarlet and Nyman.

Moreover, rule 47 applicant has not shown that inventors Sarlet and Nyman cannot be found or reached after diligent effort to be presented with all of the application papers. The petition does not include adequate evidence to support a conclusion that diligent efforts have been made to find or reach the inventors to have them join in this application. Having been unsuccessful in contacting the inventors by mail, there is no indication that Rule 47 applicant attempted to determine the inventors' forwarding addresses, and to send the application papers to those addresses for consideration. See MPEP 409.03(d). If attempts (reflecting diligence) to obtain a forwarding address or to locate the non-signing inventors by other means such as through E-mail, a new telephone number, or the Internet continue to fail, then applicants will have provided the necessary proof required under 37 CFR 1.47 that the inventor cannot be reached or found after diligent effort. Details of the efforts to locate the non-signing inventors should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details. Applicants should also submit documentary evidence such as the results of E-mail or Internet searches.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: Effective June 5, 2004, patent correspondence delivered by hand or delivery services, **other than the USPS**, to the Customer Window must be addressed as follows:

U.S. Patent and Trademark Office
220 20th Street S.
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Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309 (or effective September 28, 2004 at (571) 272-3282).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK, NY 10150-5257

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FEB 0 1 2007

OFFICE OF PETITIONS

In re Application of :
Peter Bodine :
Application No. 10/666,851 : DECISION ON PETITION
Filed: September 19, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 00630/100M091-US2 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April, 20, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/394,832, as set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional application must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the application. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference

to Prior Nonprovisional Application. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

The reference to add the above-noted, prior-filed application in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

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 Irvin Dingle at (571) 272-3210.

Frances Hicks
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEW YORK, NY 10150-5257

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OFFICE OF PETITIONS

In re Application of :
Peter Bodine :
Application No. 10/666,851 : DECISION ON PETITION
Filed: September 19, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 00630/100M091-US2 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 13, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/394,832, as set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The decision mailed February 1, 2007 dismissed the petition of April 20, 2006 for failing to provide a relationship. The amendment submitted with the renewed petition is still unacceptable since it fails to provide the relationship of Application No. PCT/US00/025035 to Application No. 09/394,832. The relationship is whether the PCT application is a continuation, continuation-in-part, or division of Application No. 09/394,832. *Note* MPEP 1895.01, which states:

- * * * the specific reference to the international application required under 35 U.S.C. 120 and 365(c) must either be contained in the first sentence of the specification following the title or included in an application data sheet. 37 CFR 1.78(a)(2)(iii). The specific reference must identify the parent international application by international application number and international filing date and indicate the relationship of the applications (i.e., continuation, continuation-in-part, or division). See 37 CFR 1.78(a)(2)(i) and MPEP § 201.11. An example of an appropriate first sentence of the specification is, for example, "This is a continuation of International Application PCT/EP2004/000000, with an international filing date of January 5, 2004, now abandoned."

Therefore, the amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

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 matter is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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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 Irvin Dingle at (571) 272-3210.

Frances Hicks
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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OFFICE OF PETITIONS

In re Application of :
Peter Bodine :
Application No. 10/666,851 : DECISION ON PETITION
Filed: September 19, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 00630/100M091-US2 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 27, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Application No. 09/394,832, 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 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.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Any inquiries concerning this decision may be directed to 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 application is being forwarded to Technology Center Art Unit 1646 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.

David Bucci
Petition Examiner
Office of Petitions

cc: Darby & Darby P.C.
P.O. Box 5257
New York, NY 10150-5257

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/666,851	09/19/2003	1646	1658	00630/100M091-US2	43	7

CONFIRMATION NO. 6790

CORRECTED FILING RECEIPT

32801
Wyeth c/o Darby & Darby, P.C.
P.O. BOX 770
Church Street Station
NEW YORK, NY 10008-0770

Date Mailed: 03/20/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Peter Bodine, Havertown, PA;

Power of Attorney: The patent practitioners associated with Customer Number 32801

Domestic Priority data as claimed by applicant

This application is a CIP of 10/169,545 05/31/2002 PAT 7,098,372
which is a CON of 09/394,832 09/13/1999 ABN
and is a 371 of PCT/US2000/025035 09/13/1999
This application 10/666,851
claims benefit of 60/412,379 09/19/2002

Foreign Applications

If Required, Foreign Filing License Granted: 11/19/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/666,851**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Pharmaceutical compositions and methods of using secreted frizzled related protein

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).

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MARY ELIZABETH BUSH
QUALLION LLC
P.O. BOX 923127
SYLMAR CA 91392-3127

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DEC 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Hisashi Tsukamoto et al	:	
Application No. 10/666,860	:	DECISION GRANTING PETITION
Filed: September 17, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q137-US3	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 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 November 15, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1745 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATRICK J. FAY, ESQ.
FAY KAPLUN & MARCIN, LLP
SUITE 702
150 BROADWAY
NEW YORK NY 10038

MAILED

MAR 2 3 2010

OFFICE OF PETITIONS

In re Application of	:	
WALAK, Steven et al.	:	
Application No. 10/666,863	:	DECISION ON PETITION
Filed: September 17, 2003	:	TO WITHDRAW
Attorney Docket No. **10123/00401**	:	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 09, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the signature on the Request to Withdraw as attorney does not have an original signature. All correspondence filed in the Office should be an original document and must include an original signature. It appears that the top of the petition is original; however the bottom of the petition appears to have a copied signature, which is not permitted by the USPTO. Since the petition is half original and half copied it does not appear that an original could have been retained as set forth in 37 CFR 1.4 below.

§ 1.4 Nature of correspondence and signature requirements.

(d)(1)*Handwritten signature.* Each piece of correspondence, except as provided in paragraphs (d)(2), (d)(3), (e) and (f) of this section, filed in an application, patent file, or other proceeding in the Office which requires a person's signature, must:

(i)Be an original, that is, have an original handwritten signature personally signed, in permanent dark ink or its equivalent, by that person; or

(ii)Be a direct or indirect copy, such as a photocopy or facsimile transmission (§ 1.6(d)), of an original. In the event that a copy of the original is filed, the original should be retained as evidence of authenticity. If a question of authenticity arises, the Office may require submission of the original.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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SEP 22 2008

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

In re Application of :
Polan, et al. :
Application No. 10/666,869 : ON PETITION
Filed: September 18, 2003 :
Attorney Docket No. CA920020062US1

This is a decision on the "Petition to Withdraw the Holding of Abandonment", filed January 25, 2008."

The petition is **Granted**.

The above-cited application was held abandoned on after a proper response was received to an Office communication mailed September 14, 2007. A review of the application file did not reveal a communication mailed September 14, 2007. It assumed that the examiner meant to hold the application abandoned for failure to seek further prosecution of the application after the mailing of the Decision on Appeal mailed May 30, 2007. A Notice of Abandonment was mailed January 11, 2008.

The instant petition was filed on January 25, 2008. In summary, petitioner maintains that after the Decision on Appeal, it was incumbent upon the examiner to take up the case for further consideration. A review of the application file reveals that the Board of Patent Appeal and Interferences reversed the examiner as to some claims, affirmed the examiner as to others, and entered a new ground of rejection.

It is noted that Section 1214.06 of the *Manual of Patent Examining Procedure (MPEP)*, provides in pertinent part, that:

> The practice under the situations identified in paragraphs I-III below is similar to the practice after a decision of the court outlined in MPEP § 1216.01. Examiners must be very careful that case files that come back from the Board are not overlooked because every case, except applications in which all claims stand rejected after the Board's decision, is up for action by the examiner in the event no court review has been sought. See MPEP § 1216.01 and § 1216.02 for procedure where court review is sought.<
>
> The time for seeking review of a decision of the Board by the Court of Appeals for the Federal Circuit or the U.S. District Court for the District of Columbia is the same for both tribunals, that is, 2 months, or 2 months with the extension provided by 37 CFR 1.304 in the event a request for rehearing is timely filed before the Board, or as extended by the *>Director<. See MPEP § 1216. When the time for seeking court review (plus 2 weeks to allow for information as to the filing of an appeal or civil action, if any, to reach the examiner) has passed without such review being sought, the examiner must take up the application for consideration.

Except for a situation where no claims stand allowed, the MPEP 1214.06 dictates that the examiner must take appropriate action in the application depending on the circumstances. In this case, it appears that the examiner should have allowed a one-month period in which applicant could re-write the dependent claims in independent format and, if no response was received thereto, cancel all rejected claims issue the application with the allowed claims. It is noted that on July 18, 2007, the examiner conducted an interview with petition and inquired as to whether petitioner would approve an examiner's amendment to put dependent claims 5 and 9 into independent form. Petitioner declined the examiner's amendment. Given the guidance of MPEP 1214.06, it would have been most appropriate for an action to be issued allowing a one month period in which applicant could re-write the dependent claims in independent form and, if petitioner did not respond to cancel all rejected claims and allow the application with only the allowed claims There does not appear to be a precedence for the proper abandonment of this application at the point at which the application was determined to be abandoned. The holding of abandonment is withdrawn, accordingly.

The application file is being directed to Technology Center, GAU 2152 for further consideration in light of MPEP 1214.06.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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LAW OFFICE OF DELIO & PETERSON, LLC.
121 WHITNEY AVENUE
NEW HAVEN, CT 06510

Mail Date: 08/02/2010

Applicant	: Evan E. Koslow	: DECISION ON REQUEST FOR
Patent Number	: 7655112	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/666,878	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Edwards Angell Palmer & Dodge, LLP
111 HUNTINGTON AVENUE
BOSTON, MA 02199

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JUL 22 2008

In re Application of :
Andrew H. Segal, et. al. :
Application No. 10/666,886 : ON PETITION
Filed: September 19, 2003 :
Attorney Docket No. 11111/2003E :

This is a decision on the petition under 37 CFR 1.137(b), filed on December 10, 2007, to revive the above-identified application.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 29, 2006, 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).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $405 filing fee and an amendment; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed on December 10, 2007.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being referred to Technology Center Art Unit 1648, for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Matthew Beaudet
Edwards Angell Palmer & Dodge, LLP
P.O. Box 55874
Boston, MA 02205

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HARNESS, DICKEY & PIERCE P.L.C.
5445 CORPORATE DRIVE
SUITE 200
TROY MI 48098

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FEB 19 2008

OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application No. 10/666,892 : DECISION ON PETITIONS
Filed: September 17, 2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. MP0393 :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 4, 2007 and supplemented on January 9, 2008, 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 amendment filed on January 9, 2008.[1]

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

[1] It should be noted the application data sheet submitted with the petition is not acceptable. 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, an ADS or a supplemental ADS filed after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

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 Charlema Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2186 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.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

Cc: Harness Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/666,892	09/17/2003	2186	2508	MP0393	85	10

CONFIRMATION NO. 9088

CORRECTED FILING RECEIPT

26703
HARNESS, DICKEY & PIERCE P.L.C.
5445 CORPORATE DRIVE
SUITE 200
TROY, MI 48098

Date Mailed: 02/19/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Hong-Yi Hubert Chen, Fremont, CA;
Henry Hin Kwong Fan, San Mateo, CA;

Assignment For Published Patent Application

Marvell International Ltd., Hamilton HM DX., BERMUDA

Power of Attorney: The patent practitioners associated with Customer Number 23624

Domestic Priority data as claimed by applicant

This application is a CON of 10/627,269 07/25/2003
which claims benefit of 60/468,802 05/07/2003

Foreign Applications

If Required, Foreign Filing License Granted: 12/11/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/666,892**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Memory mapped register file and method for accessing the same

Preliminary Class

711

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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EDWARDS, ANGELL, PALMER & DODGE, LLP
111 HUNTINGTON AVENUE
BOSTON, MA 02199

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OFFICE OF PETITIONS

In re Application of :
Andrew H. Segal, et al. :
Application No. 10/666,898 : DECISION ON PETITION
Filed: September 19, 2003 :
Attorney Docket No. 11111/2003 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 2007, to revive the above-identified application.

The petition is **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 January 4, 2007, and a three-month extension of time under the provisions of 37 CFR 1.136(a) was 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 March 5, 2007. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, (3) a proper statement of unintentional delay and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1648 for appropriate action by the Examiner in the normal course of business on the reply received December 10, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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Paper No. 031505

AUG 01 2005

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

In re Application of:
FIKE *et al.*
Serial No.: 10/666,914
Filed: September 19, 2003
Attorney Docket No.: **CNF-007**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed February 22, 2005.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Thomas A. Turano, on behalf of himself and all the attorneys/agents of listed in the request for withdrawal. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Thomas E. Anderson, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: THOMAS E. ANDERSON
HUNTON & WILLIAMS LLP
1900 K STREET, NW
WASHINGTON, DC 20006-1109

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 27, 2007

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No./10/666920 patent no.7116651

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: Changes are to correct printer errors and do not affect scope of claims

Mary Fu Chan — SPE

2616 — Art Unit

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/666,924	09/19/2003	3747	900	10512/41	5	6	1

CONFIRMATION NO. 6463

00757
GENERAL NUMBER 00757
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60611

UPDATED FILING RECEIPT

OC000000012033490

Date Mailed: 03/08/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Robert G. Everts, Chandler, AZ;
Katsumi Kurihara, Hiroshima-ken, JAPAN;

Domestic Priority data as claimed by applicant

This application is a CON of 09/784,361 02/15/2001 PAT 6,622,688
which is a CON of 09/346,750 07/02/1999 PAT 6,227,160
which is a CON of 09/028,376 02/24/1998 PAT 5,950,590
which is a CON of 08/895,345 07/16/1997 PAT 5,738,062
which is a CON of 08/651,154 05/21/1996 ABN
which is a CON of 08/065,576 05/02/1993 PAT 5,558,057
which is a CON of 07/801,026 12/02/1991 PAT 5,241,932

Foreign Applications

If Required, Foreign Filing License Granted: 12/11/2003

Projected Publication Date: 06/10/2004

Non-Publication Request: No

Early Publication Request: No

Title

Operator carried power tool having a four-cycle engine and an engine lubrication method

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).

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- ARRIVAL AT PICK-UP-POINT, September 20, 2003, 10:00 am, ALEXANDRIA, VA 22313
- ARRIVAL AT UNIT, September 20, 2003, 9:54 am, DULLES, VA 20102
- REFUSED, September 19, 2003, 9:15 pm, ZIP Code 96060
- ACCEPTANCE, September 19, 2003, 8:16 pm, CHICAGO, IL 60607

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/20/07

TO SPE OF : ART UNIT 2883

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/666926** Patent No.: **7184615**

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: _____

Frank G. Font
Supervisory Patent Examiner
Technology Center 2800

SPE — Art Unit 2883

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MARY A. WHITING, ESQ.
214 SLOSSON AVE.
STATEN ISLAND NY 10314

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MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Pederson et al. :
Application No. 10/666,934 : DECISION GRANTING PETITION
Filed: 30 January, 2002 :
For: BOB'S BORDER HELPER :

This is a decision on the petition filed on 17 December, 2003, which is treated as a petition requesting that the above-identified application be accorded a filing dated of 23 October, 2003.

On 30 January, 2002, the application was deposited. The original application papers, which included three (3) pages of specification including one (1) claim to an ornamental design and three (3) sheets of drawings, were accompanied by a Design Application Transmittal Sheet and an oath or declaration for a design application. Accordingly, the application was assigned design Application No. 29/154,901 and accorded a filing date of 30 January, 2002.

On 26 September, 2003, Initial Patent Examination Division mailed a Notice of Newly Assigned Application Number, indicating that the above-identified application had been reassigned Application No. 10/666,934 because applicants had intended to file a utility application and not a design application.

On 23 October, 2003, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application stating that the specification was missing, and that a complete specification as prescribed by 35 U.S.C. § 112 was required, and that the statutory basic filing fee and an oath or declaration in compliance with 37 CFR 1.63, identifying the application by Application Number and filing date, were required.

On 17 December, 2003, the present petition was filed, accompanied by, *inter alia*, 18 pages of specification (description and claims) and four (4) sheets of drawings.

Petitioners assert that a complete application was filed on 30 January, 2002, and that the Notice mailed on 23 October, 2003,

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should be withdrawn to the extent that it states that the application was incomplete.

A review of the Official file reveals that three (3) pages of specification and three (3) sheets of drawings were in fact filed on 30 January, 2002. As such, the application is entitled to a filing date of 30 January, 2002, using only the application papers filed on that date. Further, the claim filed on 30 January, 2002, is obviously informal for a utility application, but is sufficient to accord the application a filing date.

However, the application cannot be accorded a 30 January, 2002, filing date using the application papers filed with the present petition. If petitioners wish to have the subsequently-filed papers considered, they must be filed in the form of a preliminary amendment. If a preliminary amendment is filed, it will be reviewed by the examiner for new matter.

The petition is granted. As the petition was necessitated by Office error, the petition fee of $130.00 is unnecessary. Petitioners may request a refund by writing to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioners' request.

The "Notice of Incomplete Nonprovisional Application" mailed on 23 October, 2003, is withdrawn to the extent that it stated that the application had been deposited without a specification.

The application will be processed and examined using only the application papers present on 30 January, 2002. The specification and drawings supplied on 17 December, 2003, will not be used for processing or examination, but will be retained in the application file.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 30 January, 2002, using only the application papers filed on that date.

Telephone inquires should be directed to the undersigned at 703 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of :
Ned S. Rasor et al :
Application No. 10/666,947 : DECISION GRANTING PETITION
Filed: September 17, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. CAPR 1040 DIV1 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees and drawing; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of December 12, 2003, is accepted as having been unintentionally delayed.

Petitioner is advised that the statement under 37 CFR 3.73(b), submitted with the instant petition is incomplete.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERCIAL STREET
MANCHESTER NH 03101

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MAR 0 1 2004

OFFICE OF PETITIONS

In re Application of
Kayvan Hedayat et al.
Application No. 10/666,955
Filed: September 18, 2003
Attorney's Docket No. PCC120

ON PETITION

This is a decision on the petition filed December 31, 2003 under 37 CFR 1.53, in response to the "Notice to File Missing Parts" mailed December 12, 2003.

The petition is **DISMISSED**.

The application was filed September 18, 2003. However, on December 12, 2003, the Office of Initial Patent Examination mailed a "Notice" stating that the application had been accorded a filing date of September 18, 2003, and advising applicants that Figures 22A-22C described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner explains that no figures were missing on September 18, 2003. Instead, the application papers incorrectly included one sheet of drawings (sheet 21) which contained three figures labeled as Figure 22. The specification, however, referred to Figures 22A-22C rather than Figure 22. Additionally, a postcard receipt date stamped by the USPTO identifies the number of drawings sheets as 30 containing Figures 1-36.

It is obvious from the petition that no drawing was actually missing on September 18, 2003. Rather, the drawings were mislabeled and as a result of the applicants' filing error, only referred to the figures on sheet 21 as Figure 22. However, the "Notice" mailed on December 12, 2003, was correct in stating that Figures 22A-22C described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The present petition was not necessitated by any error on the part of the Office and the $130.00 petition was required upon filing of the petition. Thus, the $130.00 petition fee will not be refunded.

The Office of Initial Patent Examination will be notified to process the application with the filing date of September 18, 2003 and to use the application papers including 30 sheets of drawings filed on that date.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at 703-305-4497.

Patricia Faison-Ball
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

Lin You-Tien
P.O. Box 1-252
Sanchung City TW TAIWAN

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SEP 14 2005

OFFICE OF PETITIONS

In re Application of :
Lin You-Tien :
Application No. 10/666,962 : DECISION ON PETITION
Filed: September 19, 2003 :
Title: Heat Sink Element Coupling :
Structure (2)

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper reply to a non-final Office Action mailed May 18, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. A reply was received on July 30, 2004. A Notice of Non-Compliant Amendment 37 CFR 1.121 was mailed on August 16, 2004 setting a one month extendable time period for reply. An untimely reply to the Notice of Non-Compliance was submitted on September 17, 2004 and September 27, 2004. Accordingly, this application became abandoned on September 17, 2004. A Notice of Abandonment was mailed on July 13, 2005.

This petition is hereby **GRANTED**.

A one (1) month extension of time was requested with the instant petition. However, pursuant to 37 CFR 1.136 (a), an extension of time 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) Petitioner is ineligible for any extensions of time, nor is an extension of time fee required to revive the application. Accordingly, $60.00 will be credited .

The Office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 3700 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 10/10/07

TO SPE OF : ART UNIT 1714

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/666976 Patent No: 7166658 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 1796 Art Unit

PAGE 2/2 * RCVD AT 4/23/2009 3:24:53 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/42 * DNIS:2709892 * CSID:703 306 3186 * DURATION (mm-ss):00-40

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov
DIW 08-04

CHRIS L. HOLM
MILBANK, TWEED, HADLEY & MCCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

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OFFICE OF PETITIONS

In re Application of	:	
Friedman, Gray, Roti, Seaman,	:	DECISION REFUSING STATUS
Lopata, Cesare	:	UNDER 37 CFR 1.47(a)
Application No. 10/666,979	:	
Filed: 17 September, 2003	:	
Atty Docket No. 36287-04402	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 8 July, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 17 September, 2003, without an executed oath or declaration. Accordingly, on 12 December, 2003, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 8 July, 2004, petitioners filed a five (5) month extension of time, a declaration naming Allen R. Friedman, Stephen E. Gray, Stephen L. Roti, David A. Seaman, Benjamin B. Lopata, David, and Kelly Cesare as joint inventors, and signed by all joint inventors except Roti on Cesare on behalf of themselves and the non-signing joint inventors, the present petition, petition fee, and the late-filing surcharge.

Petitioners state that joint inventors Roti and Cesare have refused to sign the declaration. Petitioners further state that joint inventor Kelly Cesare has now changed her name to Kelly Cesare Coffey.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2).

In regards to item (1), petitioners have not provided proof that joint inventors Roti and Ceseare were ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] While the declarations of Catherine Y. Harper state that copies of the present application were sent to each non-signing inventor, it not clear whether the declarations were made with first-hand knowledge on the part of Ms. Harper.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

---

[1] MPEP 409.03(d).

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

With regards to item (2) the declaration is defective in that it does not state the residence, mailing address, or citizenship of non-signing inventor Cesare.[2] A statement of the inventor's citizenship is a statutory requirement and cannot be waived.[3] A new oath or declaration, containing the residence, mailing address, and citizenship of both inventors, signed by the signing inventor on behalf of himself and the non-signing inventor in compliance with 37 CFR 1.63 and 1.67 is required.

Furthermore, the declaration does not identify the date that the application was filed. Any oath or declaration filed with a renewed petition must identify both the application number and filing date of the application.

Additionally, with regard to non-signing inventor Cesare's purported change of name, the inventorship is determined by the executed oath or declaration, a petition under 37 CFR 1.182 to correct an inventor's name, accompanied by the requisite petition fee, must be filed if an inventor's name is not correctly spelled on the declaration. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67 must be submitted with any renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

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[2] MPEP 605.01.

[3] 35 U.S.C. § 115, MPEP 605.01.

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW 11-04

CHRIS L. HOLM
MILBANK, TWEED, HADLEY & MCCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

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NOV 1 8 2004

OFFICE OF PETITIONS

In re Application of	:
Friedman, Gray, Roti, Seaman,	: DECISION REFUSING STATUS
Lopata, Cesare	: UNDER 37 CFR 1.47(a)
Application No. 10/666,979	:
Filed: 17 September, 2003	:
Atty Docket No. 36287-04402	:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 29 September, 2004.

The petition is again **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 17 September, 2003, without an executed oath or declaration. Accordingly, on 12 December, 2003, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 8 July, 2004, petitioners filed a five (5) month extension of time, a declaration naming Allen R. Friedman, Stephen E. Gray, Stephen L. Roti, David A. Seaman, Benjamin B. Lopata, David, and Kelly Cesare as joint inventors, and signed by all joint inventors except Roti on Cesare on behalf of themselves and the non-signing joint inventors, a petition, petition fee, and the late-filing surcharge. The petition was dismissed on 11 August, 2004.

The present renewed petition was filed on 29 September, 2004. Petitioners again assert that joint inventors Roti and Cesare have refused to sign the declaration. Petitioners have provided a declaration by registered patent attorney Chris L. Holm stating that a copy of the application was sent to joint inventor Cesare's attorney, but that joint inventor Cesare has not returned an executed declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2).

In regards to item (1), petitioners do not appeared to have addressed whether joint inventor Roti was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1]

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

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[1] MPEP 409.03(d).

With regards to item (2) upon further review the declaration submitted with the present renewed petition is defective in that it does not state the citizenship of joint inventors Friedman and Lopata. A statement of the inventor's citizenship is a statutory requirement and cannot be waived.[2] A new oath or declaration, containing the residence, mailing address, and citizenship of of all inventors and signed by joint inventors Friedman and Lopata in compliance with 37 CFR 1.67 is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

/D Wood/
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[2] 35 U.S.C. § 115, MPEP 605.01.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW 02-05

CHRIS L. HOLM
MILBANK, TWEED, HADLEY & MCCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

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FEB 10 2005

OFFICE OF PETITIONS

In re Application of	:	
Friedman, Gray, Roti, Seaman,	:	DECISION ACCORDING STATUS
Lopata, Cesare	:	UNDER 37 CFR 1.47(a)
Application No. 10/666,979	:	
Filed: 17 September, 2003	:	
Atty Docket No. 36287-04402	:	

This is in response to the twice renewed petition filed under 37 CFR 1.47(a) on 20 January, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors, Stephen L. Roti and Kelley Cesare, have 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, via the declaration of registered patent attorney Chris L. Holm filed on 29 September, 2004, that a copy of the above-identified application was sent to non-signing inventor Cesare via her attorney, James Lynn. Additionally, petitioners have provided a copy of the cover letter transmitting the application papers to non-signing inventor Roti. The non-signing inventors, however, have both failed to sign and return the declaration naming them as joint inventors along with Allen R. Friedman, Stephen E. Gray, David A. Seaman, and Benjamin B. Lopata.

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 non-signing inventor Cesare at the address given in the declaration. Notice will be provided to non-signing inventor Roti at the addresses given in the petition, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

It is noted that the declaration of registered patent attorney Chris L. Holm provided with the renewed petition is unsigned. The declaration will be considered to have been ratified by attorney Holm's signature on the petition. Petitioners **must** inform the Office if this is an incorrect interpretation.

The application is being referred to Technology Center Art Unit 3624 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
OIW 02-05

Kelly Cesare
c/o Mr. James Lynn, Esq.
443 Park Avenue South
Suite 603
New York NY 10016

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FEB 10 2005

OFFICE OF PETITIONS

In re Application of
Friedman et al.
Application No. 10/666,979
Filed: 17 September, 2003
For: METHOD AND SYSTEM FOR TRANSFER OF EMPLOYEE STOCK OPTIONS

Dear Ms. Cesare:

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).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

CHRIS L. HOLM
MILBANK, TWEED, HADLEY & MCCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW d2-05

Stephen L. Roti
33 Curbside Drive
Woodmere NY 11598

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FEB 10 2005

OFFICE OF PETITIONS

In re Application of
Friedman et al.
Application No. 10/666,979
Filed: 17 September, 2003
For: METHOD AND SYSTEM FOR TRANSFER OF EMPLOYEE STOCK OPTIONS

Dear Mr. Roti:

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

CHRIS L. HOLM
MILBANK, TWEED, HADLEY & MCCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

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MAY 01 2009

OFFICE OF PETITIONS

In re Application of
CARTER, Carol et al.
Application No. 10/666,997
Filed: September 18, 2003
Attorney Docket No. **FUNC-0017-CO1**

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 19, 2008.

The request is not approved because it is **moot**.

A review of the file record indicates that the power of attorney to JAGTIANI + GUTTAG has been revoked by the assignee of the patent application on April 14, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **STEVEN B. KELBER**
10363-A DEMOCRACY LANE
FAIRFAX VA 22030

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of :
SU, et al. :
Application No. 10/667,004 : DECISION ON PETITION
Filed: September 19, 2003 : TO WITHDRAW
Attorney Docket No. 21058/1206448-US1 : 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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER LLP** has been revoked by the assignee of the patent application on May 15, 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: **DARBY & DARBY PC**
P.O. BOX 770
NEW YORK, NY 10008-0770

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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dlw 07-04

LSI LOGIC CORPORATION
1621 BARBER LANE
MS: D-106 LEGAL
MILPITAS CA 95035

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APR 0 9 2004

OFFICE OF PETITIONS

In re Application of	:
Moss and Howard	: DECISION ACCORDING STATUS
Application No. 10/667,021	: UNDER 37 CFR 1.47(a) AND
Filed: 6 February, 2004	: DECISION ON PETITION
Atty Docket No. 03-0172	: UNDER 37 CFR 1.53

This is in response to the petition filed under 37 CFR 1.47(a) on 12 February, 2004. This is also a decision on the petition under 37 CFR 1.53 to accord the above-identified application a filing date of 18 September, 2003, with four (4) sheets of drawings including Figure 4, as a part of the original disclosure.

The petition is **GRANTED**.

Petition Under 37 CFR 1.47(a)

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established that a copy of the application was sent to the non-signing inventor, Robert Moss. However, the non-signing inventor orally refused, during a telephone call with petitioner's registered patent attorney, Daniel N. Fishman, to sign and return an executed declaration listing him as a joint inventor along with Michael Howard.

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 1.53

The application was filed on 18 September, 2003.

Accordingly, on 12 December, 2003, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 18 September, 2003, but that Figure 4 described in the specification appeared to have been omitted.

In response, on 12 February, 2004, the present petition and a copy of four (4) sheets of drawings containing Figures 1-5 were filed. Petitioners argue that one sheet of drawings containing Figure 4 was filed with the other application papers on 18 September, 2003, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 09/18/03, the above-identified application number, and identifies the application by first named inventor's name and invention title, and acknowledges receipt of, *inter alia*, "Figures (4 pages)". Petitioners request that the application, including one sheet of drawings containing Figure 4, be accorded a filing date of 18 September, 2003.

A review of the record reveals that three (3) sheets of drawings containing Figures 1-3 and 5 have been located among the application papers received on 18 September, 2003. However, the evidence is convincing that the application papers deposited on 18 September, 2003, included four (4) sheets of drawings, one of which was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawings containing Figure 4 described in the specification, is entitled to a filing date of 18 September, 2003.

The "Notice" mailed on 12 December, 2003, is vacated to the extend that it stated that Figure 4 appeared to have been omitted.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application will be processed with the copy of one (1) sheet of drawings containing Figure 4 supplied on 12 February, 2004, as a part of the original disclosure. The copies of the other drawing sheets supplied with the present petition will not be

used for processing or examination, but will be retained in the application file.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 18 September, 2003, using the application papers filed on that date, and the copy of one (1) sheet of drawings containing Figure 4 supplied with the present petition.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov
DW 04-04

Robert Moss
2020 Creekside Drive
Longmont, CO 80504

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APR 09 2004

OFFICE OF PETITIONS

In re Application of
Moss et al.
Application No. 10/667,021
Filed: 18 September, 2003
For: METHODS AND STRUCTURE FOR SCAN TESTING OF SECURE SYSTEMS

Dear Mr. Moss:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

LSI LOGIC CORPORATION
1621 BARBER LANE
MS: D-106 LEGAL
MILPITAS CA 95035

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.
10/667,029	09/18/2003	Merwin H. Alferness	ROC920030085US1	9131

30206 7590 05/14/2010

IBM CORPORATION
ROCHESTER IP LAW DEPT. 917
3605 HIGHWAY 52 NORTH
ROCHESTER, MN 55901-7829

EXAMINER	
NGUYEN, TANH Q	

ART UNIT	PAPER NUMBER
2182	

NOTIFICATION DATE	DELIVERY MODE
05/14/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

rociplaw@us.ibm.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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IBM CORPORATION
ROCHESTER IP LAW DEPT. 917
3605 HIGHWAY 52 NORTH
ROCHESTER MN 55901-7829

MAILED

MAY 13 2010

Technology Center 2100

In re Application of: ALFERNESS et al.
Serial No.: 10/667,029
Filed: September 18, 2003
Docket: ROC920030085US1
Title: METHODS AND APPARATUS FOR ALLOCATING BANDWIDTH FOR A NETWORK PROCESSOR

DECISION ON PETITION
under 37 C.F.R. § 1.181

This paper provides the decision on the petition filed March 1, 2010, under 37 C.F.R. § 1.181 and M.P.E.P. § 706.07 to withdraw the Notification of Non-Compliant Appeal Brief, mailed December 31, 2009.

The Petition is **GRANTED.**

Applicable Prosecution History

January 16, 2007	RCE filed with amendments to the claims.
March 6, 2007	Non-Final action mailed: introduced rejection under 35 USC 112 first paragaraph for not providing enablement for the added limitation *"determining an amount of memory bandwidth of a network processor allocated among a plurality of data types used to transmit data through a plurality of active ports"*, hence requiring one amount of memory bandwidth for all active ports and/or data types. .....Claims 1-23 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for "dynamically activating a port for transmitting data of the data type" [step 314, FIG. 3], does not reasonably provide enablement for "*dynamically adjusting the amount of memory bandwidth allocated to at least one of the plurality of data types based on the determinations*".
June 6, 2007	Response with minor amendments.

August 17, 2007	Final Rejection mailed. Maintained the 112-1 rejections, "because the specification, while being enabling for "determining an amount of bandwidth allocated to each of active port for each data type" [step 304, FIG. 3], hence requiring one amount of memory bandwidth being allocated for an active port and/or data type, and another amount of memory bandwidth being allocated for another active port and/or data type; and while enabling for "determining a difference between a maximum amount of bandwidth that may be used by the data types and the total amount of bandwidth currently used by the data types" [step 308, FIG. 3] - does not reasonably provide enablement for the limitation "determining an amount of memory bandwidth of a network processor allocated among a plurality of data types used to transmff data through a plurality of active ports", hence requiring one amount of memory bandwidth for all active ports and/or data types".
October 17, 2007	Response. No amendment.
October 29, 2007	Advisory Action mailed.
December 17, 2007	RCE filed with remarks and amendment. The amendment changed "allocated" to "used" in claim 1, changing claim 1 to recite as follows: "determining an amount of memory bandwidth of a network processor ~~allocated among~~ **used by** a plurality of data types used to transmit data through a plurality of active ports; determining an amount of memory bandwidth of the network processor used by each of the plurality of data types; and dynamically adjusting **an** amount of memory bandwidth allocated to at least one of the plurality of data types based on the determinations." To overcome the rejections under 35 USC 112 first paragaraph, and points to pages 6, 7 and 10 for support.
March 20, 2008	The non-final office attion mailed on march 20, 2008, dropped the rejections under 35 USC 112 First paragraph in response to the remarks and amendment filed on December 17, 2007, and rejected all the claims over art.

.....

February 20, 2009	Pre-Appeal Brief request filed.
May 13, 2009	Decision to proceed to Board on Pre-appeal brief request mailed.
June 15, 2009	Appeal brief Filed.
September 8, 2009	Notification of Non-Compliant Appeal Brief mailed stating that the Brief did not provide a concise explanation of the subject matter.
October 8, 2009	Appeal Brief filed,
December 31, 2009	Notice of Defective brief mailed stating that the Brief provides citations that support claims with a different scope than the pending claims.

March 01, 2010 Instant Petition under 37 C.F.R. § 1.181 requesting withdrawal of the Notification of Non-Compliant Appeal Brief filed.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests the withdrawal of the Notification of Non-Compliant Appeal Brief mailed on December 31, 2009.

Petitioner is seeking review of the Notification of Non-Compliant Appeal Brief for the reasons set forth below.

Petitioner argues that the Notification of Non-Compliant Appeal Brief, improperly treats as a procedural issue, substantive issues under which applicants are entitled to judicial review.

RULES AND PROCEDURE

37 CFR § 1.181 Petition to the Director.

(a) Petition may be taken to the Director:
(1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

.....

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

.....

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

MPEP § 1201 states, in part:

> The United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a substantive nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. **Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits,** and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134).

The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board....

1205.02 [R-3] Appeal Brief Content

(v) Summary of claimed subject matter. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which must refer to the specification by page and line number, and to the drawing, if any, by reference characters. While reference to page and line number of the specification requires somewhat more detail than simply summarizing the invention, it is considered important to enable the Board to more quickly determine where the claimed subject matter is described in the application. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of 37 CFR 41.37(c)(1)(vii), every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters. If appellant does not provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), the Office will notify appellant of the defect in the brief and give appellant a time period within which to file an amended brief. See 37 CFR 41.37(d).

1205.03 [R-3] Non-Compliant Appeal Brief and Amended Brief

The question of whether a brief complies with the rule is a matter within the jurisdiction of the examiner and the Board. The examiner will review the brief to ensure that the required items of the brief are present. Both the Board and the examiner will review the brief for compliance with the content requirements of the brief (37 CFR 41.37(c)). 37 CFR 41.37(d)< provides that if a brief is filed which does not comply with all the requirements of paragraph (c), the appellant will be notified of the reasons for noncompliance. Appellant will be given 1 month or 30 days from the mailing of the notification of non-compliance, whichever is longer to file an amended brief. Extensions of time may be granted under 37 CFR 1.136(a) or 1.136(b). The Office may use the form paragraphs set forth below or form PTOL-462, "Notification of Non-Compliant Appeal Brief (37 CFR 41.37)" to notify appellant that the appeal brief is defective. The appeal will be dismissed if the appellant does not timely file an amended brief, or files an amended brief which does not overcome all the reasons for noncompliance of which the appellant was notified.

Under 37 CFR 41.37(d), the appellant may file an amended brief to correct the deficiencies in the original brief. Moreover, **if appellant disagrees with the holding of noncompliance, a petition under 37 CFR 1.181 or 41.3 may be filed.** Filing a petition

will not toll the time period. Appellant must timely reply to the notice or the Office communication that requires an amended brief.

.....

In response to the Notice of Non-Compliant Appeal Brief (37 CFR 41.37) or the Office communication that requires an amended brief, appellant is required to file an amended brief that is either a complete new brief with the required corrections or a replacement section(s).....

(B) When the Office holds the brief to be defective solely due to appellant 's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice.

REQUIREMENTS

A petition under 3 7 CFR § 1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. Note, the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. In addition § 1.181 (f) sets forth: any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely. Further, when a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, ...it may be required that there have been a proper request for reconsideration (37 CFR § 1.111) and a repeated action by the Examiner.

The petition filed on March 1, 2010 includes elements (1) and (2) above, as well as a request for reconsideration.

DECISION

Petitioner contends that the same basic enablement issue was withdrawn by examiner in the office action mailed March 20, 2008, when examiner withdrew the enablement rejection under 35 USC 112.

A review of the file record indicates that claim 1 was amended in the response filed on December 17, 2007, to overcome the enablement rejection under 35 USC 112 First paragraph on file at that time. Examiner, in response to this amendment and response, withdrew the rejection under 35 USC 112 First paragraph.

Further, the first Notification of Non-Compliant Appeal Brief mailed on September 8, 2009, held the Brief defective for not being concise in the "Explanation of Subject Matter" section. Appellants timely filed a Supplemental Brief on October 8, 2009, to overcome the deficiencies cited in the first Notification of Non-Compliant Appeal Brief mailed on September 8, 2009. The second Notification of Non-Compliant Appeal Brief holds the Brief non-compliant for the reason that "appellant provides citations that support claims with a different scope than pending claims". It is not clear from this statement, if the Examiner holds that the claims, as currently presented, are not enabled. If the claims, as they exist currently, had enablement issues, the prosecution

history does not provide any evidence that Appellants were appraised of such an issue, before the filing of an appeal.

Per MPEP 1201, Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, **the questions thereby raised are said to relate to the merits,** and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134).

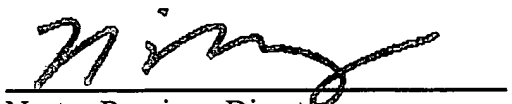
Thus, it is improper under current office practice to make the brief non-compliant for the reasons set forth in the Notification of Non-Compliant Appeal Brief mailed on December 31, 2009.

For the above stated reasons, the petition is **GRANTED.**

The Notification of Non-Compliant Appeal Brief mailed on December 31, 2009, is hereby vacated.

The Application has been forwarded to examiner of record to consider the Appeal Brief filed on 6/15/2009, and the Supplemental brief filed on October 8, 2009, and issue an appropriate Office Action.

Any inquiry concerning this decision should be directed to Mano Padmanabhan whose telephone number is (571) 272-4210.



Nestor Ramirez, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

NRR:mp

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/19/06

Paper No.: —

TO SPE OF : ART UNIT 3641

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/667042 Patent No.: 7086335 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**.

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: _____

MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER
SPE

3641
Art Unit

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FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES, CA 90071

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AUG 0 2 2006

OFFICE OF PETITIONS

In re Application of Lee :
Application No. 10/667,074 :
Filing Date: September 18, 2003 :
Attorney Docket No. 7196-129/10311520 :

Decision Granting Petition
Under 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.55(c), filed June 30, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to Tiawanese application No. 092108198, filed April 10, 2003.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on September 18, 2003, which is after November 29, 2000 and within 12 months of April 10, 2003 (the filing date of the foreign application to which benefit is now being claimed). The petition includes a supplemental application data sheet identifying the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,370 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

This application is being referred to Technology Center AU 2112 for further examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/667,074	09/18/2003	2112	750	LA-7196-129.US	2	13	2

CONFIRMATION NO. 6848

000167
FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES, CA 90071

CORRECTED FILING RECEIPT

OC000000019756397

OC000000019756397

Date Mailed: 07/26/2006

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)

Chun-Liang Lee, Taipei, TAIWAN;

Power of Attorney:

Robert Berliner–20121

Domestic Priority data as claimed by applicant

Foreign Applications

TAIWAN 092108198 04/10/2003

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

US10/667,074

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Input/output unit access switching system and method

Preliminary Class

710

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired

before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Conley Rose, P.C.
P.O. Box 3267
Houston, TX 77253-3267

Mail Date: 04/21/2010

Applicant	: Kung-Ling Ko	: DECISION ON REQUEST FOR
Patent Number	: 7656898	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/667,081	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1253** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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www.uspto.gov

NGUYEN & ASSOCIATES
16168 BLOSSOM HILL ROAD
LOS GATES, CA 95032

MAILED

JUN 22 2006

Technology Center 2100

In re Application of: B. HOLMER
Application No. 10/667,098
Filed: September 18, 2003
For: HIGH QUALITY AND HIGH PERFORMANCE THREE-DIMENSIONAL GRAPHICS ARCHITECTURE FOR PORTABLE HANDHELD DEVICES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 13, 2006.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal is the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 10.40(a) further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the U.S. Patent and Trademark Office (Office) will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: ANTHONY MURABITO, PARTNER
WAGNER MURABITO & HAO
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

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Nguyen & Associates
16168 Blossom Hill Road
Los Gates, CA 95032

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AUG 22 2006
OFFICE OF PETITIONS

In re Application of :
Bruce Holmer :
Application No. 10/667,098 : DECISION ON PETITION
Filed: September 18, 2003 : TO WITHDRAW
Attorney Docket No. MEDIAQ-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 March 13, 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 Frank Nguyen on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the sole named signing inventor at the first copied address below until otherwise properly notified by the applicant.

The revocation of power of attorney filed July 24, 2006 is not acceptable as the statement under 37 CFR 3.73(b) is inaccurate because the office records indicate the invention was assigned from Bruce Holmer to NVIDIA Corporation not MediaQ Inc.

There is an outstanding Office action mailed July 31, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Bruce Holmer
2012 Bishop Road
Belmont, CA 94002

cc: Anthony Murabito, Partner
Wagner Murabito & Hao
Two North Market Street, Third Floor
San Jose, CA 95113

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/667,098	09/18/2003	Bruce Holmer	MEDIAQ-015

CONFIRMATION NO. 2250

35577
NGUYEN & ASSOCIATES
16168 BLOSSOM HILL ROAD
LOS GATES, CA 95032

OC000000020019526

Date Mailed: 08/15/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/13/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRUCE HOLMER
2012 BISHOP ROAD
BELMONT, CA 94002

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
Bruce Holmer :
Application No. 10/667,098 : DECISION ON PETITION
Filed: September 18, 2003 :
Attorney Docket No. MEDIAQ-015 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 1, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed July 1, 2007. Accordingly, the date of abandonment of this application is October 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03.

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. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to

the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

cc: BRYAN M. FAILING
TWO NORTH MARKER STREET
THIRD FLOOR
SAN JOSE, CA 95113

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SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON OH 44718-3615

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NOV 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Michael M. Sherman et al. :
Application No. 10/667,100 : ON PETITION
Filed: September 17, 2003 :
Attorney Docket No. 1423-AE :

This is a decision regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 25, 2004.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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THOMAS KAYDEN HORSTEMEYER & RISLEY L.L.P.
SUITE 1750
100 GALLERIA PARKWAY N.W.
ATLANTA, GA 30339

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MAR 16 2004

OFFICE OF PETITIONS

In re Application of :
Chiao-Chung Huang et al :
Application No. 10/667,124 :
Filed: September 18, 2003 :
Attorney Docket No. 250122-1020 :

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 (2) set forth above.

As to item (2), the Combined Oath and Declaration of Power of Attorney is unacceptable since the declaration must be signed by all the signing inventors on behalf of themselves and on behalf of non-signing inventor Ming-Hann Tsai. The declaration would be acceptable if all the signing inventors signed in their respective signature blocks and the signature block of non-signing inventor Ming-Hann Tsai is left blank. Accordingly, an oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by all the signing inventors on behalf of themselves and on behalf of non-signing inventor Ming-Hann Tsai, or a declaration signed by all the inventors but the signature block of Ming-Hann Tsai left blank, must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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THOMAS KAYDEN HORSTEMEYER & RISLEY L.L.P.
SUITE 1750
100 GALLERIA PARKWAY N.W.
ATLANTA, GA 30339

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JUN 14 2004

OFFICE OF PETITIONS

In re Application of	:	
Chiao-Chung Huang et al.	:	
Application No. 10/667,124	:	DECISION GRANTING
Filed: September 18, 2003	:	STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No. 250122-1020	:	

This is in response to the petition filed May 3, 2004, requesting reconsideration of a decision mailed March 16, 2004, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the non-signing inventor (Ming-Hann Tsai) has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JUN 14 2004

OFFICE OF PETITIONS

MING-HANN TSAI
NO. 73-1, LANE 109, LIANCHENG RD.
JUNGHE CITY, TAIPEI, TAIWAN, R.O.C.

In re Application of
Chiao-Chung Huang; Kuo-Kang Yeh; Ming-Hann Tsai; Po-Tsun Chen; Kuo-Ming Huang
Application No. 10/667,124
Filed: September 18, 2003
For: TEST PIECE SPLITTING DEVICE

Dear Inventor Ming-Hann Tsai:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Thomas Kayden Horstemeyer & Risley L.L.P.
Suite 1750
100 Galleria Parkway N.W.
Atlanta, GA 30339

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Charles P. Landrum
FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVENUE, SUITE 2400
AUSTIN, TEXAS 78701

MAY - 4 2007

In re Application of Conrad :
Serial No.: 10/667,126 :
Filed: 19 September 2003 : PETITION DECISION
Attorney Docket No.: AMBI:086US :
:

This is in response to the petition under 37 CFR 1.144, filed 5 April 2007, requesting reconsideration of the restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed on 19 September 2003, under 35 U.S.C. 111(a). The examiner mailed to applicants on 28 September 2006, a restriction requirement in which the original claims 1-53 were divided into 6 groups. Five of the groups are directed to methods while one of the groups is directed to a product, as follows:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-41, drawn to a method for isolating small RNA molecules, classified in class 536, subclass 25.4.

II. Claims 42-45, drawn to a method for isolating miRNA or siRNA, classified in class 536, subclass 25.4.

III. Claims 46 and 47, drawn to a method for isolating miRNA, classified in class 536, subclass 25.4.

IV. **Claim 48, drawn to a method for isolating small RNA, classified in class 536, subclass 25.4.**

V. **Claim 49, drawn to a kit for isolating small RNA, classified in class 536, subclass 25.4.**

VI. **Claims 50-53, drawn to a method for isolating small RNA, classified in class 536, subclass 25.4.**

On 28 November 2006, Applicants elected Group II, claims 42-45 with traverse.

On 5 April 2004, the examiner mailed an Office action which considered the traversal and rejoined Group III with elected invention of Group II. The restriction requirement among Groups I, (II/III), IV, V and VI was made FINAL. Claims 1-41, 48-53 and 56-57 were withdrawn from consideration. Claims 42-47 and 52-55 were examined on the merits. Claim 45 was rejected under 35 USC 112, second paragraph for indefiniteness. Claims 42-47 and 52-55 were rejected under 35 USC 103(a) as being unpatentable over Laugharn, in view of RNA STAT-60 Reagent, Moss and Ambros.

Applicants filed a response and a claim amendment on 5 April 2007. Applicants also filed this petition on 5 April 2007, requesting reconsideration of restriction requirement and rejoinder of Groups I, II, III, IV and VI.

DISCUSSION

The file history and petition have been carefully considered.

All of the process groups are directed to the isolation of RNA molecules. As such, the processes are related in terms of effect- they all result in isolated RNA molecules and as such, cannot be considered to be independent inventions.

Moreover, all of the process claims require the same three active steps of adding an alcohol to a sample containing RNA, applying the sample to a support, eluting the RNA molecules from the support.

The Examiner had reasoned that the process claims were distinct because the independent claims of each group require limitations not required for the independent claims of the other groups. However, when determining whether claimed inventions are distinct, it is necessary to look at both the independent and dependent claims, particularly when analyzing process inventions. The open claim language "comprising" that precedes the active steps allows for additional active steps recited in the dependent claims, which need to be considered.

In this application, the process claims have been drafted using a combination of broad and narrow limitations to describe the same invention. For example, Claim 1 does not specify that

the RNA must be siRNA or miRNA. The independent claim 42 of Group II limits the process to the isolation to miRNA or siRNA; however dependent claim 2 of Group I provides a limitation that the RNA is an siRNA or miRNA. Similarly, independent claim 1 of Group I requires lysing cells to produce a cell lysate. Independent claim 42 of Group II is silent as to whether the sample contains lysed cells; however dependent claim 43 of Group II specifically requires a cell lysate. A similar analysis of the independent claims and the dependent limitations would further support the finding that the processes of Groups I, II, III, IV and VI are not distinct.

> MPEP 803 sets forth the two criteria for a proper requirement for restriction between patentably distinct inventions:
>
> > (A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
> >
> > (B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

In this particular instance, the Office cannot maintain showing a showing of independence or distinction with regard to the process inventions of Groups I, II, III, IV and VI.

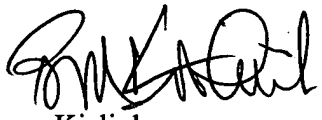
DECISION

The petition is **GRANTED** for the reasons set forth above.

The restriction requirement made between Groups I, II, III, IV and VI has been withdrawn. Process of Groups I, IV and VI will be rejoined for examination with the Groups II/III for the reasons set forth above.

The application will be forwarded to the examiner for further action consistent with this decision and to consider the papers filed 5 April 2007.

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.



Bruce Kisliuk
Director, Technology Center 1600

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

In re Application of :
Foster D. HINSHAW, et al. :
Application No. 10/667,127 : DECISION ON PETITION
Filed: September 18, 2003 : TO MAKE SPECIAL
For: **DISK MIRROR ARCHITECTURE FOR DATABASE APPLIANCE** :

This is a decision on the petition filed November 12, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

MAILED

APR 19 2005

Technology Center 2100

In re Application of HINSHAW	:	
Application No.: 10/667,128	:	DECISION ON PETITION
Filing Date: September 18, 2003	:	FOR ACCELERATED
For: ASYMMETRIC DATA STREAMING ARCHITECTURE HAVING AUTONOMOUS AND ASYNCHRONOUS JOB PROCESSING UNIT	:	EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition filed August 30, 2004 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 CFR §1.102(d), states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The present petition does not satisfy requirement (E) of the criteria set forth above, as the discussion of the references does not point out with particularity how the language of the independent claim is distinguishable and patentable over the references cited. Specifically, although the discussion identifies purported deficiencies in references US 5,999,937, US 5,884,299, and US 5,937,401, it does not point out with particularity the specific claim language in the independent claim that is not taught by the prior art. Furthermore, the discussion of the remaining references includes no comparison with the independent claim whatsoever.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Foster D. Hinshaw	: DECISION ON REQUEST FOR
Patent Number	: 7634477	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/667,128	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1185** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 GATEHOUSE RD, SUITE 500 EAST
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

COPY MAILED

MAR 10 2009

OFFICE OF PETITIONS

Applicant: Skiadopoulos *et al.*
Application No.: 10/667,141
Filed: September 18, 2002
Title: RECOVERY OF RECOMBINANT HUMAN PARAINFLUENZA VIRUS TYPE 2 (HPIV2) FROM CDNA AND USE OF RECOMBINANT HPIV2 IN IMMUNOGENIC COMPOSITIONS AND AS VECTORS TO ELICIT IMMUNE RESPONSES AGAINST PIV AND OTHER HUMAN PATHOGENS

: **DECISION**
: **DISMISSING**
: **PETITION**

This is a decision on the "PETITION UNDER 37 CFR 1.183 TO WAIVE RULE TO PERMIT FILING OF REFERENCES ON COMPACT DISK," filed March 21, 2007 ("the petition"). The petition requests waiver of 37 CFR 1.98(a)(2) to submit, in lieu of paper copies, electronic copies on compact disk of references cited in an information disclosure statement (IDS) filed concurrently with the petition on March 21, 2007.

Petitioner paid by check the petition fee of $400.00 pursuant to 37 CFR 1.17(f) for the petition under 37 CFR 1.183.

For the reasons set forth herein, the petition is dismissed.

DISCUSSION

37 CFR 1.98(a)(2) provides that any IDS filed under § 1.97 shall include:

> A legible copy of:
>
> > (i) Each foreign patent;
> >
> > (ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office;
> >
> > (iii) For each cited pending unpublished U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and
> >
> > (iv) All other information or that portion which caused it to be listed.

37 CFR 1.183 states:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

The instant petition has been fully considered. 37 CFR 1.98(a)(2) requires legible copies of certain documents listed on an IDS filed under 37 CFR 1.97 be submitted to the Office. Petitioner seeks waiver of this copy requirement for the IDS that was filed concurrently with the petition on March 21, 2007. The provisions of 37 CFR 1.98(a)(2) may be waived under 37 CFR 1.183 where a petitioner demonstrates an extraordinary situation in which justice requires suspension of the rule.

In support of the petition for waiver of 37 CFR 1.98(a)(2), petitioner notes that the IDS includes a large number of documents, several of which are PCT publications of great length. Petitioner submits that:

> [D]ue to the number of references submitted and the volume of paper that would be required to comply with 37 CFR 1.98(a)(2) by filing of paper copies of the references, it is in the interest of the USPTO and Applicants to accept the references on Compact Disk. In particular, acceptance of the references on Compact Disk avoids the waste of USPTO resources for scanning of the references for inclusion in the Image File Wrapper of the present application, and avoids the waste of Applicants' resources for printing of paper copies of the references in the first instance.[1]

As a general rule, waiver of a rule in the interest of justice is not available when there is recourse within the rules of practice. In this instance, petitioner requests waiver of the rules governing submission of documents to the Office based on the alleged waste of Office and applicant resources if paper copies of a large number of references were submitted to the Office. In lieu of submitting paper copies of the references, however, petitioner may use the Office's web-based electronic filing system (EFS-Web) to electronically submit copies of the references to the Office with an IDS (e-IDS).[2] Using EFS-Web, petitioner may electronically submit copies of the references to the Office in portable document format (PDF), which will avoid wasting applicants' resources as it appears applicant already has copies of each of the references in PDF format.[3]

[1] Petition at page 2.

[2] *See Manual of Patent Examining Procedure* § 609.07 (8th ed. 2001) (Rev. 7, July 2008) (providing that "[a]s of May of 2002 IDSs may be submitted to the Office via the EFS" and that "[a]s of January 2007, an e-IDS filed via EFS-Web may include citations of U.S. patents, U.S. patent application publications, foreign patent documents and non-patent literature (NPLs)").

[3] *See* petition at page 2, item (C) (identifying "a Compact Disk including a .pdf file for each reference").

Moreover, EFS-Web can accommodate submission of an e-IDS that contains a listing of a large number of references.[4] Foreign references and non-patent literature are submitted as separate PDF attachments and are indexed as "Foreign Reference" and "NPL Documents" under the IDS/References category (copies of U.S. patents and patent application publications are not required to be submitted).[5] Up to sixty files can be uploaded per submission, and the filer may submit any additional electronic files as follow-on documents later on the same day as the initial filing.[6]

Additionally, contrary to petitioner's assertion, it would not be in the Office's interest to accept petitioner's submission of the references on compact disk as the Office presently has no facility for importing such files from compact disk directly into the image file wrapper (IFW) of the instant application.[7] Rather, the Office would be required to undergo the time-consuming and costly steps of printing out each of the references submitted on compact disk and scanning the printed references into the IFW. Nor is it in applicant's interest for the Office to accept petitioner's submission of the references on compact disk as manual scanning of the references printed from the compact disk increases the potential for error on the part of the Office and would likely reduce the quality of the copies of the references that are entered into the IFW.

Accordingly, for all of the reasons set forth above, petitioner has not presented facts that demonstrate an extraordinary situation in which justice requires suspension of 37 CFR 1.98(a)(2), and the petition is dismissed.

CONCLUSION

The petition is dismissed for the reasons set forth herein, and the application is being forwarded to Technology Center 1600 for further processing. Telephone inquiries regarding this communication should be directed to Nicole Dretar at (571) 272-7717.

Brian E. Hanlon

Brian Hanlon
Deputy Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[4] *See Manual of Patent Examining Procedure* § 609.07 (8th ed. 2001) (Rev. 7, July 2008) (providing that an individual e-IDS may contain a listing of (1) a combined total of 50 U.S. patents and U.S. patent application publications, (2) 50 foreign patent documents, and (3) 50 NPLs, and that more than one e-IDS may be submitted if these numbers are exceeded).
[5] *See Frequently Asked Questions about EFS-Web*, Question p220efs221, at http://www.uspto.gov/ebc/efs_faq.htm.
[6] *See Legal Framework for EFS-Web* § XVI (September 2008) at http://www.uspto.gov/ebc/portal/efs/legal.htm.
[7] *See Frequently Asked Questions about EFS-Web*, Question p242efs586, at http://www.uspto.gov/ebc/efs_faq.htm.

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Paper No.

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MAY 17 2004

OFFICE OF PETITIONS

In re Application of :
Kara Webster, Roger Seiver and :
John Hawkins : DECISION REFUSING STATUS
Application No. 10/667,143 : UNDER 37 C.F.R. § 1.47(a)
Filed: September 19, 2003 :
Attorney Docket No. 2737.DHE.NP :
Title: Trailer Hitch Guide :
:

This is a decision on the "PETITION TO ACCEPT DECLARATION WITH MISSING INVENTOR," filed February 17, 2004 (Certificate of Mailing February 12, 2004).

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on September 19, 2003, without an executed oath or declaration (and missing the statutory basic filing fee). Accordingly, on December 12, 2003, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration and payment of the surcharge for late filing under § 1.16(e)(and payment of the statutory basic filing fee). This Notice set a two month period for reply, with extensions of time obtainable under § 1.136(a).

In response, rule 47 applicants timely filed the instant petition, along with payment of the petition fee, and late surcharge (and the basic filing fee for a small entity). On petition, applicants assert that status under § 1.47(a) is proper because inventor Hawkins has failed to return the signature documents for the application, despite repeated requests from Applicants' counsel.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (2).

Petitioner has shown that after being presented with the application papers through his attorney, inventor Hawkins has, by his conduct in not responding, refused to join the application. The petition includes the petition fee and a statement of the last known address of inventor Hawkins.

However, to be acceptable under § 1.47(a) a declaration must be executed by the signing joint inventors on behalf of themselves and on behalf of the nonsigning joint inventor. 37 CFR 1.47(a) and 35 U.S.C. 116, second paragraph, require all available joint inventors to file an application "on behalf of" themselves and on behalf of a joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application." Thus, in addition to other requirements of law (35 U.S.C. 111(a) and 115), in an application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a):

> (A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP §602, §605.01, and §1414) and (2) make oath or declaration on behalf of the non-signing joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the non-signing inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the non-signing inventor(s), unless otherwise indicated.
>
> (Emphasis added).

The declaration received on petition does not identify John Hawkins as a joint inventor. Thus, it cannot be considered signed by the available joint inventors on behalf of themselves and on behalf of the nonsigning joint inventor.

Further, the 2 page declaration received in the Office with the petition is not in compliance with 37 CFR 1.63 and 1.64. The declaration(s) does not identify all inventors by name, residence/post office address, and citizenship, including nonsigning inventor Hawkins.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: CUSTOMER SERVICE WINDOW
2011 South Clark Place
Crystal Plaza Two Lobby
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Kara Webster, Roger Seiver and :
John Hawkins :
Application No. 10/667,143 :
Filed: September 19, 2003 :
Attorney Docket No. 2737.DHE.NP :
Title: Trailer Hitch Guide :

DECISION ACCORDING STATUS UNDER 37 C.F.R. § 1.47(a)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION," filed July 12, 2004, requesting reconsideration of the decision refusing status under § 1.47(a). The petition was recently forwarded to the undersigned for consideration.

The petition is **GRANTED**.

The above-identified application was filed on September 19, 2003, without an executed oath or declaration (and missing the statutory basic filing fee). In response to the "Notice to File Missing Parts of Nonprovisional Application," mailed December 12, 2003, on February 17, 2004, applicants filed the initial petition, asserting that status under § 1.47(a) is proper because inventor Hawkins has failed to return the signature documents for the application, despite repeated requests from Applicants' counsel.

By decision mailed May 17, 2004, the petition was dismissed for failure to submit an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116. The declaration did not identify John Hawkins as a joint inventor, and did not include the residence/post office address and citizenship of all of the inventors identified.

On instant request for reconsideration, applicants submitted a declaration executed by joint inventors Webster and Seiver on behalf of themselves and on behalf of non-signing inventor Hawkins.

The declaration filed July 12, 2004, and the petition have been reviewed and are now both found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

Copied from 10677143 on 08/17/2005

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Copied from 10677143 on 08/17/2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JOHN HAWKINS
13146 SOUTH DAYCOURT DR
DRAPER, UT 37367

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AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of
Kara Webster, Roger Seiver and
John Hawkins
Application No. 10/667,143
Filed: September 19, 2003
Attorney Docket No. 2737.DHE.NP
Title: Trailer Hitch Guide

LETTER

Dear Mr. Hawkins:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney 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 (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Copied from 10677143 on 08/17/2005

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Copied from 10677143 on 08/17/2005

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OFFICE OF PETITIONS

In re Application of :
Zhong et al. : DECISION ON PETITION
Application No. 10/667,151 :
Filed: September 18, 2003 :
Attorney Docket No. 03-151US1 :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a) AND STATEMENT ACCOMPANYING PETITION" filed June 12, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the Notice to File Missing Parts of Application mailed December 12, 2003. The Notice set a two-month time limit for applicants to file an executed oath or declaration, and submit payment of the filing fee, additional claim fees and the late surcharge. Extensions of time were permitted under § 1.136(a).

On March 15, 2004, applicants filed a response, made timely by an accompanying petition for extension of time with the first month (and extension fee). However, on April 2, 2004, the Office mailed a Notice of Incomplete Reply, stating that applicants had not submitted sufficient fee payment. The Notice further stated that the period continued to run from that set in the Notice mailed December 12, 2003. No further reply received and no further extension obtained, the above-identified application became abandoned on March 13, 2004. A Notice of Abandonment was mailed on April 12, 2006.

In response, petitioner timely filed the instant petition. Petitioner states that the response filed March 15, 2004 was complete. Specifically, petitioner indicates that it included an authorization to charge any required fees to a Deposit Account and that during the relevant period the Deposit Account had more than sufficient funds to pay the fees. Further,

petitioner states that the Notice of Incomplete Application was never received.

Petitioner's arguments and evidence have been considered and found persuasive. A review of the response filed March 15, 2004, confirms that it included the authorization to charge any required fees to the Deposit Account. In fact, it appears that all fees were charged except the additional claim fees. There is no evidence in the record that at the time the Deposit Account was insufficient to cover payment of all of the fees. Thus, the evidence supports a conclusion that the response filed March 15, 2004 was complete.

Moreover, the petition includes a showing to the satisfaction of the Director that the Notice of Incomplete Reply was not received. The practitioner attests to not receiving the Office action. The petition includes a statement from patent paralegal Marjorie Scariati that a search of the file jacket and docket records indicates that the Notice was not received. In addition, a copy of the docket record where the non-received Notice would have been entered had it been received and docketed is enclosed.

In view thereof, the Notice of Abandonment mailed April 12, 2006 is **VACATED** and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application file is, thereby, forwarded to OIPE to withdraw the holding of abandonment and to complete pre-examination processing including charging any outstanding claim fees pursuant to the authorization timely filed March 15, 2004.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Mailed June 17, 2005

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

In re Application of	:	
Gholam Peyman	:	
Serial No.: 10/667,161	:	PETITION TO MAKE SPECIAL
Filed: September 19, 2003	:	
Attorney Docket No.: PMAN-25	:	

This is in response to the petition filed June 2, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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United States Patent and Trademark Office
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SEP 2 1 2004

In re Application of Albert Lewis Serial Number: 10/667,179 Filed: September 19, 2003 For: HIGH TEMPERATURE GLASS FIBER INSULATION	: : : : :	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed July 12, 2004, 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 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

BONIARD I. BROWN
#113
1500 West Covina Parkway
West Covina CA 91790