UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 14 2006
OFFICE OF PETITIONS

Susan M. Donahue
Rockwell Automation, INc. 704-P
1201 South Second Street
Milwaukee, WI 53204

In re Application of Bergh :
Application No. 10/672,411 : Decision on Petition
Filing Date: September 26, 2003 :
Attorney Docket No. 110003.00044 :

This is a decision on the petition filed May 9, 2006, under 37 CFR 1.181 and 37 CFR 1.182.

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

The petition under 37 CFR 1.182 is **dismissed**.

Facts:

A Notice of Non-Compliant Amendment was mailed September 1, 2005.

A reply to the Notice was filed October 3, 2006. The reply included corrected drawings.

A Notice of Allowance and Notice of Allowability were mailed October 6, 2005. The Notice of Allowability required the submission of corrected drawings including changes required by the September 1, 2005 Notice.

On January 5, 2006, petitioner submitted the issue fee and issue fee transmittal form. Petitioner did not submit *any* paper referencing the Notice of Allowability.

A Notice of Abandonment was mailed March 16, 2006.

Discussion:

35 USC 133 requires that if an action is mailed, and if an applicant fails to respond to such action within 6 months or within any shorter time period set by the Office, the application goes abandoned as a matter of law. The statute does not distinguish "correct" Office actions from "incorrect" Office actions. An Office action in the form of a Notice of Allowability was mailed October 6, 2005. The Notice provided applicants with three months to file a response. Applicant did not file a response to the Notice of Allowability within 3 months. Therefore, as a matter of law, the application is abandoned.

Abandonment is not based on the correctness, in whole or in part, of an Office action. For example, if an applicant fails to respond to a restriction requirement later determined to be untenable as drafted, the application is abandoned. If an Office action is mailed rejecting claims based on anticipation over a reference that was facially not available as prior art against the application, an applicant must still respond to the Office action in order to avoid abandonment.

Petitioner failed to respond to the Notice of Allowability. Such response could have taken the form of a written traversal stating the facts in the instant petition regarding the original drawings. Petitioner could have directly contacted the examiner and taken steps to have the examiner withdraw the requirement in writing prior to the expiration of the time period for response.

For the reasons above, the holding of abandonment will not be withdrawn.

The petition under 37 CFR 1.182 is dismissed as inapplicable. 37 CFR 1.181 addresses situations when an application is not in fact abandoned as a matter of law. 37 CFR 1.137 addresses situations when an application is abandoned as a matter of law. Petitions under 37 CFR 1.182 are appropriate only when the Office has failed to create a rule to address a situation. Therefore, the petition cannot be granted.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted, the required petition fee ($1,500 for a large entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

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

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

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Form PTO/SB/64

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

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

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

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Susan M. Donahue
Rockwell Automation, Inc. 704-P
1201 South Second Street
Milwaukee, WI 53204

In re Application of Bergh	:	
Application No. 10/672,411	:	Decision on Petition
Filing Date: September 26, 2003	:	
Attorney Docket No. 110003.00044	:	

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

The petition is **granted**.

A Notice of Allowance and Notice of Allowability were mailed October 6, 2005. The Notice of Allowability required the submission of corrected drawings including changes required by the September 1, 2005 Notice.

On January 5, 2006, petitioner submitted the issue fee and issue fee transmittal form. Petitioner did not submit *any* paper referencing the Notice of Allowability. As a result, the application became abandoned on April 6, 2006.

A Notice of Abandonment was mailed March 16, 2006.

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

The Office of Publications will be informed of the instant decision and will take steps to issue the application as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

In re Application of Dempcy et al. Application No. 10/672,429 Filed: September 26, 2003 Attorney Docket No. ELI-0044C1 (130101.00058)	: : : : :	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 2, 2009.

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

A review of the file record indicates that the power of attorney to practitioners associated with Townsend and Townsend and Crew, LLP was revoked by the assignee of the patent application on September 29, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: JACKSON WALKER LLP
901 MAIN STREET
SUITE 6000
DALLAS, TX 75202-3797

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 092004

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

JAN 2 5 2005

In re Application of:	:	
SHINICHI HASHIMOTO et al.	:	
Serial No.: 10/672,469	:	DECISION ON REQUEST TO WITHDRAW
Filed: September 26, 2003	:	FROM RECORD
Attorney Docket No.: **51480-20027.00**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed December 22, 2003.

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 David L. Fehrman, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

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

All future communications from the Office will be directed to the assignee, Yasuo Muramatsu, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Hien Phan at (571) 272-1606.

for

Hien Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: MURAMATSU & ASSOCIATES
7700 IRVINE CENTER DRIVE
SUITE 225
IRVINE, CA 92618

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW 10-04

HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

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NOV 0 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Ulrich Bonne	:	
Application No. 10/672,483	:	ON PETITION
Filed: 26 September, 2003	:	
Atty Dkt No. H0006099(1100.1239101)	:	

This is a decision on the petition filed on 23 September, 2004, requesting that the above-identified application be accorded a filing date of 26 September, 2003, with Figure 4 described in the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 26 September, 2003.

Accordingly, on 31 August, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, stating that, *inter alia*, the application had been accorded a filing date of 26 September, 2003, but that Figure 4 described in the specification appeared to have been omitted. An oath or declaration, a surcharge for its late filing, and replacement drawings were also required.

In response, on 23 September, 2004, the present petition and one (1) sheet of drawings containing Figure 4 described in the specification was filed, along with a declaration, surcharge, and replacement drawings.

Petitioner argues that the sheet of drawings containing Figure 4 was filed with the other application papers on 26 September, 2003, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 09/26/03, the above-identified application number, and identifies the application by the inventor's name, attorney docket number, and

invention title, and acknowledges receipt of, *inter alia*, "24 sheets informal drawings". Petitioner requests that the application, including one (1) sheet of drawings containing Figure 4 described in the specification, be accorded a filing date of 26 September, 2003.

A review of the record reveals that no sheet of drawings containing Figure 4 described in the specification has been located among the application papers received on 26 September, 2003. However, the evidence is convincing that the application papers deposited on 26 September, 2003, included 24 sheets of drawings, one of which included Figure 4 described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including one (1) sheet of drawings containing Figure 4 described in the specification, is entitled to a filing date of 26 September, 2003.

The "Notice" mailed on 31 August, 2004, is vacated to the extent that it states that Figure 4 appears to be omitted from the application.

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 50-0413.

The application will be processed with the one (1) sheet of drawings containing Figure 4 supplied with the present petition, as a part of the original disclosure.

Receipt is acknowledged of the replacement drawings filed on 23 September, 2004. The replacement drawings are not part of the original disclosure and must be reviewed by the examiner for new matter.

The address listed on the petition is different than the correspondence address of record. 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 referred to Initial Patent Examination Division for further processing with a filing date of 26 September, 2003, using the application papers filed on that date, and the one (1) sheet of drawings containing Figure 4 supplied with the present petition, and an indication in Office records that 24 sheets of drawings were present on filing.

Telephone inquires should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE, SUITE 800
MINNEAPOLIS, MN 55403-2402

OIPE JC35 JAN 19 2005 PATENT & TRADEMARK OFFICE

Ret. Dec.

RTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/672,490
Filing Date	September 26, 2003
First Named Inventor	Jerry Behar
Art Unit	
Examiner Name	
Attorney Docket Number	90864.000002

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

Approved JMStone
Jacqueline M. Stone, Director
Technology Center 1700
6/16/05

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [X] the attorneys/agents associated with Customer Number 23387

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

The reasons for this request are:

CORRESPONDENCE ADDRESS

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

[ ] The address associated with Customer Number:

OR

[X] Firm or Individual Name	Jerry Behar				
Address	15 Forrester Court				
City	Amherst	State	NY	Zip	14228
Country	USA				
Telephone		Fax			
Signature	Donna P. Suchy				
Name	Donna P. Suchy	Registration No.	47,979		
Date	January 17, 2005	Telephone No.	585 231-1191		

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/12/08

Paper No.: —

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/672492 Patent No.: 7269205 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

Chris Lo
SPE

2611
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MACCORD MASON PLLC
300 N. GREENE STREET, SUITE 1600
P. O. BOX 2974
GREENSBORO, NC 27402

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In re Application of	:	
J. Phillips L. Johnston	:	
Application No. 10/672,502	:	DECISION ON PETITION
Filed: September 26, 2003	:	TO WITHDRAW
Attorney Docket No. 7334-001	:	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 September 26, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to MACCORD MASON PLLC has been revoked by the assignee of the patent application on November 9, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DON W. WEBER
235 BRISTOL
TROY, IL 62294

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OFFICE OF PETITIONS

In re Application of	:	
James Darrin Davis	:	
Application No. 10/672,526	:	DECISION ON PETITION
Filed: September 29, 2003	:	TO WITHDRAW
Attorney Docket No. 365	:	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 4, 2005.

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

A review of the file record indicates that the previously appointed power of attorney has been revoked by the applicant. 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 2822 to await a reply to the final Office action mailed December 20, 2005.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: HAVERSTOCK GARRETT& ROBERTS
611 OLIVE STREET
SUITE 1610
ST. LOUIS, MO 63101

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170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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OFFICE OF PETITIONS

In re Application of :
Osman Ahmed :
Application No. 10/672,527 :
Filed: September 26, 2003 :
Attorney Docket No. 003P14889US :

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

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 12, 2007, 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 not signed by a registered patent attorney or agent of record in this application. However, in accordance with 37 CFR 1.34(a), the signature of Russell Fowler 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 she acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Fowler desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2125 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

cc: RUSSELL FOWLER
MAGINOT, MOORE & BECK, LLP
CHASE TOWER
111 MONUMENT CIRCLE, SUITE 3250
INDIANAPOLIS, IN 46204--5130

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/672,527	09/26/2003	2125	988	2003P14889US	20	3

CONFIRMATION NO. 1203

CORRECTED FILING RECEIPT

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

OC000000027018619

Date Mailed: 11/30/2007

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

Applicant(s)

Osman Ahmed, Hawthorn Woods, IL;

Power of Attorney:

Jeffrey Morris--25307
Mark Jay--27507
James Markarian--31277
Joseph Codispoti--31819
J Pugh--33759
Tracy Hurt--34188
Daniel Staudt--34733
Laura Slenzak--35363
Stuart Kaler--35913
Chun Ng--36878

Domestic Priority data as claimed by applicant

This application is a DIV of 10/353,110 01/28/2003
which claims benefit of 60/352,452 01/28/2002

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/672,527**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Building control system using integrated MEMS devices

Preliminary Class

700

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

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FEB 24 2006

OFFICE OF PETITIONS

In re Application of	:
Jere F. Irwin et al	:
Application No. 10/672,528	: DECISION GRANTING PETITION
Filed: September 26, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. IR3-050	:

This is a decision on the petition, filed February 23, 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 24, 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 3725 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the amendment and drawings submitted with the petition.

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

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GERSH KORSINSKY
APARTMENT 4B
1236 49TH STREET
BROOKLY, NY 11219

In re Application of:
Korsinsky, Gersh., et al.
Serial No. 10/672,561
Filed: September 29, 2003
Title: A USERS WATER STORAGE

DECISION ON PETITIONS
UNDER 37 CFR § 1.181

This is a decision on the petitions filed on September 15, 2006 and February 13, 2007 under 37 CFR § 1.181. Petitioners request withdrawal of the Office Actions mailed August 1, 2006 and November 30, 2006.

The petitions are dismissed.

Background

The examiner issued a Non-Final Rejection on August 17, 2004. The applicants' claims were rejected under 35 U.S.C. § 102(b) as being anticipated by McIntosh, Hanns and Toms. The applicant then filed an amendment on September 17, 2004. The examiner found the amendment to be noncompliant based on the failure of the applicant to provide a status identifier with each claim. The Notice of Noncompliant Amendment was mailed on July 8, 2005. On August 18, 2005 the applicants filed an amendment, providing status identifiers for each claim, canceling claim 1-3 and adding claims 4-12. In the final rejection, mailed August 15, 2006, the examiner rejected the claims 4-12 under 35 U.S.C. § 112 and claims 4,6,10 and 11 under 35 U.S.C.§ 102(b).

On September 15, 2006, the first petition under 37 CFR §1.181 was filed. The petitioner stated, "the examiner failed to present evidence why a person skilled in the art would not recognize that the written description had possession of the claimed invention." On November 30, 2006 the examiner issued an advisory action, interpreting the September 15, 2006 petition as an amendment after a final rejection. The examiner found that the amendment "lacked discussion of any of the specifics with respect to the claim language employed" and therefore did not place the application in condition for allowance.

On February 13, 2007 a second petition was filed again requesting withdrawal of the final rejections. This petition raised various issues regarding the constitutionality and fairness of Patent and Trademark Office procedures.

Discussion

A review of the application indicates that the petitioners are challenging both the merits of the examiners rejections and the constitutionality of the procedures followed by the Patent and Trademark Office. With respect to petitions to the Director, relevant portions of 37 CFR § 1.181(a)(1) states:

> (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

In accordance with 37 CFR §1.181(a)(1), an applicant may properly petition the Director only where the matter to be petitioned is not subject to appeal. The M.P.E.P. defines matters that are in fact subject to appeal in §1201. The relevant section of M.P.E.P § 1201 states:

> 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.

In the petition filed on September 15, 2006, the examiner's rejections under both 35 U.S.C. § 112 paragraph 1 and 35 U.S.C. § 102(b) were challenged. These challenges were based on prior art and other patentability issues which are related to the merits. According to the M.P.E.P §1201 issues regarding the merits are appealable and therefore not appropriately raised in a petition to the Director under 37 CFR §1.181(a)(1). In the petition filed on February 13, 2007, the petitioner challenges the constitutionality and fairness of the procedures followed by the USPTO. The procedures challenged by the petitioner are based upon the Constitution, the United States Code, the Code of Federal Regulations, case law and their subsequent interpretation by the court system and the USPTO. The Office does not posses the authority to modify or reinterpret these procedures. Therefore, the petitioner's challenges cannot be appropriately addressed by the current petitions.

Decision

For the foregoing reason, the relief requested by the petitioner will not be granted. The rejections under 35 U.S.C. § 112 and §102(b) as well as the petitioner's challenges to the constitutionality of the rejection of the claims are appealable matters and will therefore not be decided by petition.

The application is being forwarded to the Examiner Phillips of Art Unit 3751 for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITIONS DISMISSED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GERSH KORSINSKY
APARTMENT 4B
1236 49th STREET
BROOKLYN NY 11219

In re Application of: Korsinsky, Gersh, et al. Serial No. 10/672561 Filed: September 29, 2003 Docket: None Title: USERS WATER STORAGE	DECISION ON RENEWED PETITION UNDER 37 CFR § 1.181

This is a decision on the renewed petition filed on September 06, 2007 under 37 CFR § 1.181 requesting review of the examiner's action. There is no fee for this petition.

The renewed petition is denied.

Essentially, Petitioner believes his rights have been abrogated by the examiner's final rejection. Attention is directed to the decision dated July 20, 2007, which decision was in response to Petitioner's previous petition filed September 15, 2006. The decision summarizes the prosecution history and provides discussion upon which the decision was based.

A further review of the prosecution reveals that applicants had ample opportunity to amend the claims and appeal to the Board of Appeals. The issues raised by the examiner are not of arbitrary and capricious actions but involve thoughtful reasoning. These issues are appealable and not petitionable in accordance with Federal statutes and regulations.

The renewed petition fails to add anything new that is persuasive to cause reversal of the previous decision. The decision is maintained.

One further note on petitioner's comments with respect to constitutionality. Reference is made to *Graham et al. v. John Deere Company of Kansas City et al.; Calmar, Inc. v. Cook Chemical Company; Colgate-Palmolive Company v. Same;* 383 US 1; 148 USPQ 459 (U.S. 1966). An excerpt from this U.S. Supreme Court precedential decision:

At the outset it must be remembered that the federal patent power stems from a specific constitutional provision which authorizes the Congress "To promote the Progress of * * * useful Arts, by securing for limited Times to * * * Inventors the exclusive Right to their * * * Discoveries * * *." Art. I, § 8. The clause is both a grant of power and a limitation. This qualified authority, unlike the power often exercised in the Sixteenth and Seventeenth Centuries by the English Crown, is limited to the promotion of advances in the "useful arts." It was written against the backdrop of the practices-eventually curtailed by the Statute of

Monopolies-of the Crown in granting monopolies to court favorites in goods or businesses which had long before been enjoyed by the public. See Meinhardt, Inventions, Patents and Monopoly, pp. 30-35 (London, 1946). The Congress in the exercise of the patent power may not overreach the restraints imposed by the stated constitutional purpose. Nor may it enlarge the patent monopoly without regard to the innovation, advancement or social benefit gained thereby. **Moreover, Congress may not authorize the issuance of patents whose effects are to remove existent knowledge from the public domain, or to restrict free access to materials already available.** Innovation, advancement, and things which add to the sum of useful knowledge are inherent requisites in a patent system which by constitutional command must "promote the Progress of * * * useful Arts." This is the standard expressed in the Constitution and it may not be ignored. And it is in this light that patent "validity requires reference to a standard written into the Constitution." A. & P. Tea Co. v. Supermarket Corp., supra, at 154, 87 USPQ at 306. **Within the limits of the constitutional grant, the Congress may, of course, implement the stated purpose of the Framers by selecting the policy which in its judgment best effectuates the constitutional aim.** [Emphasis added.]

The creation of the PTO with its powers and duties, as established by Congress, are set forth in 35 U.S.C. §§ 1 and 2 as well as other sections of the Federal code. The examiner's Office action, accordingly, is set forth within parameters established by the Constitution and Federal statutes.

It is to be noted that the present applicant's application is abandoned. As stated in 37 CFR § 1.181(f):

> The mere filing of a petition will not stay any period for reply that may by running against the application, nor act as a stay of other proceedings.

Applicant has taken no further action to maintain the application in a pending status and is, therefore, abandoned, in accordance with the Notice of Abandonment mailed August 08, 2007. Applicant is advised that the abandonment of this application may only be overcome by filing a petition to revive under 37 CFR 1.137. A petition to revive may be appropriate if applicant's failure to reply was either unavoidable or unintentional, as set forth below.

A. Failure to reply was unavoidable.

A petition to revive an abandoned application on the grounds that the failure to reply was unavoidable (37 CFR 1.137(a)) must be accompanied by: (1) the required reply (which has been filed); (2) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (3) the $255.00 petition fee as set forth in 37 CFR 1.17(l). No consideration to the substance of a petition will be given until this fee is received.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable, as well as inadvertent. This must include: (1) a satisfactory showing that the cause of the delay resulting in failure to reply in timely fashion to the Office action was unavoidable; and (2) a satisfactory showing that the cause of any delay during the time period between abandonment and filing of the petition to revive was also unavoidable.

B. Failure to reply was unintentional.

A petition to revive an abandoned application on the grounds that the failure to reply was unintentional (37 CFR 1.137(b)) must be accompanied by: (1) the required reply; (2) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (3) the $770.00 petition fee as set forth in 37 CFR 1.17(m). No consideration to the substance of a petition will be given until this fee is received. The Director may require additional information where there is a question whether the delay was unintentional.

The required items and fees must be submitted promptly under a cover letter entitled "Petition to Revive."

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

By mail: Office of the Deputy Commissioner for Patent Examination Policy
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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

Telephone inquiries with respect to reviving the application should be directed to the Office of Petitions Staff at (571) 272-3282. For more detailed information, see MPEP § 711.03(c).

Please note that there is no guarantee that a revived application will later be allowed and issued as a patent. As part of the parameters towards this, there must be allowable, claimed subject matter and the application must be in full compliance with Federal statutes and regulations.

Petitioner is entitled to file a request for reconsideration of the decision on petition, and any such request must be filed within two months of the date of this decision. See 37 CFR § 1.181 (f). Alternatively, the petitioner may precede under 37 CFR § 1.137. Either the request for reconsideration or the petition to revive should be directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02.

PETITION DENIED.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Program Examiner, at (571) 272-4514.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 22 2005

Gersh Korsinsky
1236 49th Street, Apt. 4B
Brooklyn, NY 11219

In re Application of
Gersh Korsinsky et al..
Application No. 10/672,567
Filed: September 29, 2003
For: ALTERATED COPIES

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 18, 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 _____, 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 November 19, 2004.

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: 8/3/05

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KING & SPALDING, LLP
191 PEACHTREE STREET, N.E.
45TH FLOOR
ATLANTA, GA 30303

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SEP 17 2008

In re Application of	:	
Gosselin et al.	:	
Application No. 10/672,585	:	ON PETITION
Filed: September 26, 2003	:	
Attorney Docket No. 18085.105102	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 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 Replacement Drawings and 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

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

John S. Pratt, Esq.
Kilpatrick Stockton, LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

COPY MAILED
JUL 19 2004
OFFICE OF PETITIONS

In re Application of	:	
John D. Puskas	:	
Application No. 10/672,586	:	NOTICE
Filed: September 26, 2003	:	
Attorney Docket No. 16294-0137 (52433-292707)	:	

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 file is being forwarded to Technology Center Art Unit 3762, for review of the Election filed July 2, 2004.

Inquiries related to this communication should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

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JUN 15 2007

OFFICE OF PETITIONS

In re Application of	:	
John D. PUSKAS	:	
Application No. 10/672,586	:	DECISION ON PETITION
Filed: September 26, 2003	:	TO WITHDRAW
Attorney Docket No. 16294-0137 (52433-292707)	:	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 11, 2007 and May 14, 2007.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, sent a notice of termination of an exclusive license, does not meet any of the conditions set forth in 37 CFR 10.40.

There is an outstanding Office action mailed January 11, 2007 that requires a reply by the applicant.

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 Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: JAMES G. TAUSCHE
5231 POWERS FERRY ROAD
ATLANTA, GA 30327-4649

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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JEFFREY J. HOHENSHELL
710 MEDTRONIC PARKWAY
MINNEAPOLIS MN 55432

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AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
PUSKAS, John D.	:	
Application No. 10/672,586	:	DECISION ON PETITION
Filed: September 26, 2003	:	TO WITHDRAW
Attorney Docket No. **P0011353.11**	:	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 July 05, 2007.

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

A review of the file record indicates that the power of attorney to Jeffrey J. Hohenshell has been revoked by the applicant of the patent application on July 02, 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 Michelle R. Eason at 571-272-4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **LAW OFFICE OF COLLEN A. BEARD**
P.O. BOX 1064
DECATUR, GA 30031-106

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
10/672,586	09/26/2003	John D. Puskas	16294-0137 (52433-292707)

CONFIRMATION NO. 8660

OC000000025363277

44260
LAW OFFICE OF COLLEN A. BEARD, LLC
P. O. BOX 1064
DECATUR, GA 30031-1064

Date Mailed: 08/14/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/02/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Michelle R. Eden

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

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
10/672,586	09/26/2003	John D. Puskas	16294-0137 (52433-292707)

CONFIRMATION NO. 8660

OC000000025363091

Jeffrey J. Hohenshell
710 Medtronic Parkway
Minneapolis, MN 55432

Date Mailed: 08/14/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/02/2007.

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

Michelle R. Eaden

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 3, 18, 2006

TO SPE OF : ART UNIT 3673

SUBJECT : Request for Certificate of Correction on Patent No.: 6,928,676/ 10672617

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:

[signature] 3673

SPE **Art Unit**

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KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

MAILED

FEB 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
SELINFREUND, Richard H. et al.	:	
Application No. 10/672,624	:	DECISION ON PETITION
Filed: September 26, 2003	:	TO WITHDRAW
Attorney Docket No. **VTI-107.1B(US)**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2009.

The request is **APPROVED**.

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

The request was signed by Marvin Wachs on behalf of all attorneys of record who are associated with customer No. 47670. All attorneys/agents associated with the Customer Number 47670 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed December 24, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **RICHARD H. SELINFREUND**
1285 MOOSE HILL ROAD
GUILFORD CT 06437

cc: **VERIFICATION TECHNOLOGIES, INC.**
25 MIDDLESEX TURNPIKE
UNIT 14, P.O. BOX 94
ESSEX CT 06426

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Alexandria, VA 22313-1450
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SNELL & WILMER, LLP
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, AZ 85004-2202

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Scott McCleskey et al	:	
Application No. 10/672,643	:	DECISION ON PETITION
Filed: September 27, 2003	:	TO WITHDRAW
Attorney Docket No. 4508 P	:	FROM RECORD

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

The request is **NOT APPROVED**.

Petitioner herein, Mr. John H. Platt, requests withdrawal on behalf of all attorneys of record, including all attorneys and agents associated with PTO Customer No. 20322.

A review of the file record indicates that John H. Platt and the attorneys associated with Customer No. 20322 do not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable. Therefore, there is no authority to sign the request to withdraw on behalf of the attorneys of record; namely, Lloyd Sadler and Daniel P. McCarthy. Petitioner is advised that practitioners not of record but acting in a representative capacity are responsible for the papers they filed while acting in a representative capacity.

All future communications from the Office will continue to be directed to the address of record below until otherwise properly notified by the applicant. A courtesy copy of this decision is also being mailed to the first named inventor noted below.

Lloyd Sadler and Daniel P. McCarthy remain as attorneys in this application, as appointed in the power of attorney submitted with this application on June 18, 2004. If these attorneys desire to withdraw from representation, the proper withdrawal of attorney document must be submitted.

A non-final Office action was mailed on May 16, 2007. Failure to timely reply to this Office action will result in the abandonment of the application.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Lloyd W. Sadler
Parsons Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, UT 84111

Scott McClesky
Webhound, Inc.
265 Chipman Avenue
American Fork, Utah 84003

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Lloyd W. Sadler
Parsons Behle & Latimer
Suite 1800
201 South Main Street
Salt Lake City UT 84111

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AUG 1 9 2004

OFFICE OF PETITIONS

In re Application of	:	
McClesky et al.	:	DECISION REFUSING STATUS
Application No.10/672,644	:	UNDER 37 CFR 1.47(a)
Filed: September 27, 2003	:	
Attorney Docket No. 4472 P	:	
Title: Method and System For Downloading	:	
Digital Content Over A Network	:	

This is in response to the petition under 37 CFR § 1.47(a), filed June 18, 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 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 27, 2003, without an executed oath or declaration. Accordingly, on December 19, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with § 1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of February 19, 2004.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a four (4) month extension of time was also submitted.

A grantable petition under 37 CFR. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (2) and (4).

As to item (2) the declaration executed by Inventor McClesky contains non-dated/non-initialed alterations to the declaration. The serial number and the date filed in the heading of the declaration have been altered without having been initialed and dated. A newly executed declaration without alterations must be submitted.

As to item (4), a last known address for inventor O'Kane was provided in the petition, however a different address for inventor O'Kane has been provided on the declaration. Rule 47 applicant needs to indicate at which address inventor O'Kane can be reached. The inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. See MPEP 605.03. If inventor O'Kane can be reached at the Florida address, the newly executed declaration should reflect the Florida address.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 20th Street S. Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251 until September 24, 2004, thereafter (571) 272-3215.

Charlema R. Grant
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

Lloyd W. Sadler
Parsons Behle & Latimer
Suite 1800
201 South Main Street
Salt Lake City UT 84111

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NOV 05 2004

OFFICE OF PETITIONS

In re Application of
Scott McClesky and Robert O'Kane
Application No. 10/672,644
Filed: September 27, 2003
Attorney Docket Number: 4472 P
Title of Invention: Method and System For Downloading Digital Content Over A Network

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed October 4, 2004.

The petition is GRANTED.

Petitioner has shown the non-signing inventor O'Kane 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 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 (571)272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert O'Kane
14 Colonial Club Drive # 200
Boynton, Florida, 33435

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NOV 05 2004

OFFICE OF PETITIONS

In re Application of
Scott McClesky and Robert O'Kane
Application No. 10/672,644
Filed: September 27, 2003
Attorney Docket Number: 4472 P
Title of Invention: Method and System For Downloading Digital Content Over A Network

LETTER

Dear Mr. O'Kane:

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, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Lloyd W. Sadler
Parsons Behle & Latimer
Suite 1800
201 South Main Street
Salt Lake City UT 84111

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN PLATT
SNELL AND WILMER, L.L. P.
ONE ARIZONA CENTER
400 E. VAN BUREN
PHOENIX, AZ 85004-2202

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DEC 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Scott MCCLESKEY, et al	:	
Application No. 10/672,644	:	DECISION ON PETITION
Filed: September 27, 2003	:	TO WITHDRAW
Attorney Docket No. 47909.0500		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 November 20, 2006.

The request is **APPROVED**.

A review of the file record indicates that John H. Platt does not have power of attorney in this patent application. In view of the present decision, John H. Platt, 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).

All future communications from the Office will be directed to the first named signing inventor at the address copied 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 October 15, 2007 that requires a reply by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned Goodwyn at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SCOTT MCCLESKEY
WEBHOUND, INC.
265 CHIPMAN AVENUE
AMERICAN FORK, UT 84003

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
10/672,644	09/27/2003	Scott McCleskey	4472 P

CONFIRMATION NO. 8219

POWER OF ATTORNEY NOTICE

OC000000026944979

Lloyd W. Sadler
Parsons Behle & Latimer
Suite 1800
201 South Main Street
Salt Lake City, UT 84111

Date Mailed: 11/28/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/20/2006.

- 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.

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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NOV 10 2008

In re Application of :
Karaoguz et al. :
Application No. 10/672,654 : DECISION ON PETITION
Filed: September 26, 2003 :
Attorney Docket No. 14781US02 :

This is a decision on the petition, filed July 21, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed October 23, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on May 21, 2008.

Petitioner asserts that the Office action dated October 23, 2007 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of October 23, 2007. In this regard, a review of the record shows that for an unknown reason the properly addressed Office action was returned to the Office on October 24, 2007. Accordingly, the Notice of Abandonment mailed May 21, 2008 is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2623 for remailing the Office action of October 23, 2007 and resetting the period for reply.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 03-05

STINSON MORRISON HECKER LLP
ATTN: PATENT GROUP
1201 WALNUT STREET, SUITE 2800
KANSAS CITY MO 64106-2150

COPY MAILED

MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
David H. Koch	:	
Application No. 10/672,684	:	DECISION GRANTING PETITION
Filed: 26 September, 2003	:	
Attorney Docket No. 506418-0103	:	

This is a decision on the petition, filed on 5 November, 2004, 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 20 September, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 9 June, 2005, is enclosed herewith.

The petition fee of $1,370.00 will be charged to counsel's deposit account, No. 19-4409, as authorized in the petition.

The application is being referred to Technology Center Art Unit 1723 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BAKER & MCKENZIE, LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS, TX 75201

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OFFICE OF PETITIONS

In re Application of	:	
Scott M. Petry, et. al.	:	
Application No. 10/672,688	:	ON PETITION
Filed: September 26, 2003	:	
Attorney Docket No. PST-001A	:	

This is a decision on the petition under 37 CFR 1.182, filed August 11, 2006, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Scott M. Petry
2. Gordon R. Irlam
3. Brian Maggi

Finance records show that petitioner submitted $130 for treatment of the instant petition on August 11, 2006. However, a petition under 37 CFR 1.182 requires a $400 petition fee. Therefore, the balance of $270 will be charged to petitioner's deposit account.

This application file is being referred to Technology Center Art Unit 2617 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/672,688	09/26/2003	2617	1025	PST-001A	8	62	4

CONFIRMATION NO. 9249

CORRECTED FILING RECEIPT

OC000000020692454

23562
BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS, TX 75201

Date Mailed: 10/04/2006

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)

Scott Petry, Palo Alto, CA;
Gordon Raymond Irlam, Redwood City, CA;
Brian Maggi, Mt. Prospect, IL;

Assignment For Published Patent Application

Postini, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **21839**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/675,609 09/29/2000 PAT 6,650,890

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/672,688

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

VALUE-ADDED ELECTRONIC MESSAGING SERVICES AND TRANSPARENT IMPLEMENTATION THEREOF USING INTERMEDIATE SERVER

Preliminary Class

455

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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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/672,706
Filing Date	09/26/2003
First Named Inventor	Matt Kriesel
Art Unit	1773
Examiner Name	
Attorney Docket Number	C228 1020.3

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

[X] all the attorneys/agents of record.

[ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or

[ ] the attorneys/agents associated with Customer Number [ ]

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

The reasons for this request are: Applicant revoked our representative capacity. See attachment for further detail

CORRESPONDENCE ADDRESS

AUG 3 0 2004

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

Approved
Jacqueline M. Stone, Director
Technology Center 1700

[ ] Customer Number: [ ]

OR

[ ] Firm or Individual Name	Matt Kriesel				
Address	Impact Gel Corporation				
Address	204 North Washington Street				
City	Melrose	State	Wisconsin	Zip	54642
Country	U.S.A.				
Telephone	608-488-3630	Fax			

Name	Steven D. Kerr		
Signature		Registration No.	32,472
Date	6/8/04	Telephone No.	404-962-7524

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 1.14. 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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BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

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OFFICE OF PETITIONS

In re Application of Cordina et al.
Application No. 10/672,711
Filing Date: September 26, 2003
Attorney Docket No. 920476-94867

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed September 18, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A Notice of Allowance was mailed on May 5, 2006. The Notice set a statutory period for reply of three (3) months.

A reply was not filed within three months.

On or about September 8, 2006, petitioner diligently used PAIR to inquire into the status of the application. Petitioner discovered papers had been mailed May 5, 2006. PAIR allowed petitioner to view the papers mailed May 5, 2006, including the Notice of Allowance.

A Notice of Abandonment was mailed September 11, 2006.

The instant petition was mailed September 13, 2006, in compliance with 37 CFR 1.8, and was received September 18, 2006.

Petitioner contends the papers mailed May 5, 2006, were never received.

Discussion:

Petitioner has established non-receipt of the Notice of Allowance and other papers mailed May 5, 2006. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Office of Publications will be informed of the instant decision and will take steps to ensure the application issues as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON, CA 94583-0806

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In re Application of	:	
Robert H. WOLLENBERG et al.	:	
Application No. 10/672,721	:	DECISION ON PETITION
Filed: September 26, 2003	:	
Attorney Docket No. T-6074	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 15, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 15, 2007, which set a statutory period for reply of three (3) months. Accordingly, the date of abandonment of this application is February 16, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440.00 and the publication fee of $300.00, (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely pay the issue and publication fees as required by the Notice of Allowance is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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TODD A. SULLIVAN
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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OFFICE OF PETITIONS

In re Application of	:	
Kosatos et al.	:	DECISION ON PETITION
Application No. 10/672,782	:	TO WITHDRAW
Filed: September 26, 2003	:	FROM RECORD
Attorney Docket No. 17224-6113	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 19, 2005.

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

A review of the file record indicates that on June 8, 2005 the power of attorney to Wolf Greenfield & Sacks, P.C. was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Sheehan Phinney Bass & Green, PA
c/o Peter Nieves
1000 Elm Street
Manchester NH 03105-3701

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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION TO
Dietz et al.	:	WITHDRAW HOLDING OF
Application No. 10/672783	:	ABANDONMENT
Filed: 09/26/2003	:	AND DECISION ON PETITION
Attorney Docket No. 030593	:	UNDER 37 CFR 1.137(b)

This is a decision on the petition filed on 11 October, 2006, which is treated as a petition to withdraw the holding of abandonment in the above-identified application. This is also a decision on the petition under 37 CFR 1.137(b) filed on 28 March, 2007.

The petition to withdraw the holding of abandonment is **GRANTED**.

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

A review of the record reveals that a non-final Office action was mailed on 6 October, 2005, and set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. No reply having been received, the application appeared to be abandoned on 7 January, 2006. Notice of Abandonment was mailed on 2 May, 2006.

Petitioners assert that a reply to the non-final Office action was timely filed. In support, petitioners have supplied a copy of a transmittal letter itemizing the filing of an amendment, which contains a Certificate of Mailing dated 3 January, 2006, stating that the correspondence was deposited in first class mail, and signed by petitioners' then-current attorney of record, Karl Hormann. A copy of the amendment itself has also been supplied.

The petition filed on 11 October, 2006, further contains a statement by attorney Hormann stating that the application was "dispatched to the Patent and Trademark Office" on 3 January, 2006.

As petitioners have provided convincing evidence that a reply and extension of time was transmitted to the USPTO on 3 January, 2006, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

As the holding of abandonment has been withdrawn, and the application is not abandoned, the petition to revive the application is dismissed as moot.

The petition fee will be refunded.

The application is being referred to Technology Center Art Unit 1746 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Tom Thuan Cheung	:	DECISION ON PETITION
Application Number: 10/672811	:	
Filing Date: 09/26/2003	:	
Attorney Docket Number:	:	
SVL920030076US1/4298P	:	

This is a decision on the petition filed on January 31, 2008, under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on January 20, 2008, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on

---

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

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

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

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

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

October 19, 2007, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on February 25, 2008.

Receipt of the issue and publication fee filed with the present petition is acknowledged.

Receipt of the amendment after allowance filed with the present petition is acknowledged.

The application is referred to Technology Center 2135 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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TODD T TAYLOR
TAYLOR & AUST PC
142 S MAIN ST
PO BOX 560
AVILLA IN 46710

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OFFICE OF PETITIONS

In re Application of	:	
Joerg Rheims, Oliver Heise, Klaus	:	
Doelle, Ronald Sigl, Werner Witek	:	DECISION REFUSING
Application No. 10/672,817	:	STATUS UNDER § 1.47(a)
Filing Date: September 26, 2003	:	
Attorney Docket No. VOI0276.US	:	

This is in response to the "PETITION FOR FILING DECLARATION AND POWER OF ATTORNEY UNDER 37 C.F.R. §1.47(b)," filed April 19, 2004, which is being treated as a petition under 37 CFR 1.47(a).[1]

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).

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[1] A petition under 37 CFR 1.47(b) is only applicable when **all** of the inventors refuse to execute the application for patent.

The above-identified application was filed on September 26, 2003, without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed on December 19, 2003. This Notice set an extendable period for reply of two months. On April 19, 2004, applicants filed the instant petition, made timely by obtaining a two month extension of time.

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 (1) and (2).

As to requirement (1), there has been no showing that Oliver Heise was presented with the application papers (specification, claims, drawings, oath or declaration). Rather, the petition only establishes that Heise was forwarded a copy of the declaration and assignment forms. Regarding this, the Manual of Patent Examining Procedure states:

> 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.
>
> It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 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 U.S.P.Q. 80 Comm'r Pat. 1956).

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.[2]

---

[2] MPEP 409.03(d).

As to requirement (2), petitioner has failed to submit an oath or declaration in compliance with 37 CFR 1.63. The declaration is not acceptable because it contains a non-initialed, non-dated alteration to the post office address of inventor Werner Witek.[3] Regarding this, the Manual of Patent Examining Procedure states that it is "improper for anyone, including counsel, to alter, rewrite, or partly fill in any part of the application, including the oath or declaration, after execution of the oath or declaration by the applicant." Furthermore, 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."[4]

On renewed petition, applicants must submit a declaration in compliance with 37 CFR 1.63.

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 (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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[3] "Any interlineation, erasure, cancellation or other alteration of the application papers...should be dated and initialed or signed by the applicant on the same sheet of paper." 37 CFR 1.52(c)(1).

[4] MPEP 605.04(a).

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OFFICE OF PETITIONS

In re Application of	:	
Joerg Rheims, Oliver Heise, Klaus	:	
Doelle, Ronald Sigl, Werner Witek	:	DECISION ACCORDING
Application No. 10/672,817	:	STATUS UNDER § 1.47(a)
Filing Date: September 26, 2003	:	
Attorney Docket No. VOI0276.US	:	

This is in response to the "RESPONSE TO DECISION REFUSING STATUS UNDER 37 C.F.R. 1.47(a)," filed November 26, 2004.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on September 26, 2003, without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed on December 19, 2003. This Notice set an extendable period for reply of two months. On April 19, 2004, applicants filed a petition under 37 CFR 1.47(a), made timely by obtaining a two month extension of time. However, the petition was dismissed in a decision mailed on June 3, 2004. Rule 47 applicant did not establish that the non-signing inventor had been presented with a copy of the application papers. In addition, Rule 47 applicant did not submit a declaration in compliance with 37 CFR 1.63 because it contained a non-initialed, non-dated alteration.

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 renewed petition[1], Rule 47 applicant has submitted a declaration in compliance with 37 CFR 1.63 and satisfied the requirements of 37 CFR 1.47(a). 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 non-signing inventor at the last known 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 1731 for docketing and 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

[1] The renewed petition was made timely as applicants purchased a four month extension of time.

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Daniel R. Brown
57 Stagecoach Rd.
Fort Worth, TX 75244

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OFFICE OF PETITIONS

In re Patent of Graham :
Patent No. 6,901,987 :
Issue Date: June 7, 2005 : Decision on Petition
Application No. 10/672,818 :
Filing Date: September 6, 2003 :
Attorney Docket No. MD-001 :

This is a decision on the petition filed January 8, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

Petitioner has provided a showing under 37 CFR 1.8(b) establishing a petition under 37 CFR 1.378(c) was originally mailed to the Office on July 5, 2009, and Office records indicate the Office received $2,130 on July 9, 2009. The Office is unable to locate the original petition. Therefore, this decision is based on the copy of the petition supplied on January 8, 2010.

The petition is **GRANTED.**

The patent issued June 7, 2005. The last day of the grace period for paying the 3.5 year maintenance fee was June 8, 2009. This petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Therefore, this petition was timely filed under the provisions of 37 CFR 1.378(c).

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.

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. Although this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego CA 92121-1714

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In re Application of	:	
Samir S. Soliman	:	
Application No. 10/672,824	:	DECISION ON PETITION
Filed: April 26, 2004	:	
Attorney Docket No. 010124C1	:	

This is a decision on the petition under 37 CFR 1.314, filed December 27, 2005, to defer issuance of the patent.

The petition is **GRANTED**.

In the present petition, petitioner requests "the above-identified application be deferred from issuance until such time as three (3) corresponding Petitions attached hereto are decided..." It is the policy of the USPTO to defer issuance of a patent, upon request, for a period of up to one month only in the absence of extraordinary circumstances. Petitioner has not shown that such extraordinary circumstances exist, and therefore, the issuance of the patent was deferred for one month from the filing date of the petition.

As the one-month deferral period has now passed, the application will proceed to issuance as a patent.

Telephone inquiries concerning this decision may 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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Patents Department
5775 Morehouse Drive
San Diego CA 92121-1714

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In re Application of	:	
Samir S. Soliman	:	
Application No. 10/672,824	:	DECISION ON PETITION
Filed: April 26, 2004	:	
Attorney Docket No. 010124C1	:	

This is a decision on the petition filed December 27, 2005, to accord the above-identified application a filing date of September 26, 2003.

Petitioner states that the present application is a continuation of Application No. 10/011,965, filed November 5, 2001. Petitioner explains the above-identified application was deposited on September 26, 2003. On March 31, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, indicating that the oath or declaration and Figure 1 appeared to have been omitted. In response, on April 23, 2004, petitioner submitted a declaration, power of attorney, a copy of Figure 1, and the requisite fees. Thereafter, the application was accorded the filing date of April 23, 2004. Petitioner asserts that Figure 1 was not omitted on filing because it was incorporated by reference from the prior application pursuant to 37 CFR 1.57(a).

The Office reminds petitioner that 37 CFR 1.57(a) became effective on September 21, 2004, and applies to applications filed on or after that date. Therefore, an application that inadvertently omits material must have been filed on or after September 21, 2004 in order for 37 CFR 1.57(a) to apply. MPEP 201.17(II)(A). The mere reference to another application, patent, or publication is not an incorporation of anything therein into the application containing such reference. MPEP 608.01(p).

In this instance, 37 CFR 1.57(a) does not apply as this application was filed before September 21, 2004. Moreover, the application as filed does not contain any explicit incorporation by reference statement.

Accordingly, the petition is dismissed. The $400.00 petition fee will be charged to the Deposit Account because the filing of the present petition was not due to any error on the part of the USPTO.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM, INC
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of	:	
Samir S. Soliman	:	
Application No. 10/672,824	:	ON PETITION
Filed: April 26, 2004	:	
Attorney Docket No. 010124C1	:	

This is a decision on the petition, filed May 5, 2006, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

Karen Creasy
Petitions Examiner
Office of Petitions

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JUN 2 2004

Office of the Director
Group 3600

Robert J. Van Der Wall
Colonial Bank Building, Suite 1620
1200 Brickell Avenue
Miami, FL 33131

In re application of
Allan L. Brown et al.
Application No. 10/672,827
Filed: September 26, 2003
For: VEHICLE MOMENTUM FORCE ACTUATED BRAKING AEROSTABILIZER

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

This is a decision on the petition submitted on March 17, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a declaration signed by Donald E. Burg and Allan L. Brown indicating that they are each at least 65 years of age.

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

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

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

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

KJD/vdb: 5/13/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROGER M. RATHBUN
13 MARGARITA COURT
HILTON HEAD ISLAND SC 29926

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OFFICE OF PETITIONS

In re Application of	:
Mackin	:
Application No. 10/672,862	: DECISION GRANTING PETITION
Filed: September 26, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. OM130	:

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on November 3, and 8, 2004, and supplemented February 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 July 13, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 13, 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 fee; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue and publication Fee payment 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) 272-3217.

Brian Hearn
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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McANDREWS, HELD & MALLOY, LTD.
34th Floor
500 W. Madison Street
Chicago, IL 60661

Mail Date: 04/21/2010

Applicant	: Paul A. Edney	: DECISION ON REQUEST FOR
Patent Number	: 7574253	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/672,863	: OF WYETH
Filed	: 09/26/2003	:
		:

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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SIEMENS CORPORATION
ATTN: ELSA KELLER, LEGAL ADMINISTRATOR
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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OFFICE OF PETITIONS

In re Application of :
Rami Caspi, et al. :
Application No. 10/672,899 : ON PETITION
Filed: September 26, 2003 :
Attorney Docket No. 2003P08215US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 1, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 2, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment and information disclosure statement submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Michael J. Buchenhorner
HOLLAND & KNIGHT
701 Brickell Avenue
Miami, FL 33131

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TECHNOLOGY CENTER 2100

In re Application of:	)	
Ramagopal et al.	)	
Application No. 10/672,910	)	
Filed: September 26, 2003	)	**DECISION ON REQUEST FOR**
For: SYSTEM AND METHOD FOR	)	**WITHDRAWAL AS ATTORNEY**
IDENTIFYING A NETWORK RESOURCE	)	
	)	

This is a decision on the Request To Withdraw from Representation filed July 12, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal is the date of decision and not the date of request. See M.P.E.P. § 402.06. **37 C.F.R. § 10.40(a) further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent**.

There is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

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

Michelle R. Eoeson for

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

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ROBERT D BUYAN
STOUT UXA BUYAN & MULLINS LLP
4 VENTURE
SUITE 300
IRVINE CA 92618

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OFFICE OF PETITIONS

In re Application of	:	
Xiangfeng Dai	:	
Application No. 10/672,926	:	DECISION REFUSING STATUS
Filed: September 26, 2003	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. CRICP-001A	:	

This is in response to the "Response to Notice to File Missing Parts and Petition Under 37 C.F.R. §§ 1.42 and 1.47", filed July 12, 2004, which is being treated as a petition under 37 C.F.R. §1.47(b).

The petition under 37 C.F.R. § 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on September 26, 2003, without an executed oath or declaration. Accordingly, on January 5, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing, together with the statutory basic filing fee. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition on July 12, 2004, and paid both the petition fee, the surcharge for late filing of the declaration, and the statutory basic filing fee. To make timely this reply, applicant included a three month extension of time and a Certificate of Mailing dated July 6, 2004.[1]

A grantable petition under 37 C.F.R. § 1.47(b) requires: (1) proof that the non-signing inventor or legal representative cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 C.F.R. § 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor or legal representative; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirements (1), (2), (4) or (6).

As to requirement (1), there has been no showing that the legal representative was presented with the application papers (specification, claims, drawings, oath or declaration) before refusing to sign the oath or declaration. See MPEP 409.03(d).

As to requirement (2), the oath or declaration must list the citizenship, residence, and mailing address of the legal representative. In addition, the oath or declaration must identify Dong Dai as a legal representative.

As to requirement (4), no statement of the last known address of the legal representative has been provided. See MPEP 409.03(c) and 409.03(e).

As to requirement (6), irreparable damage may be established by a statement that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage. See MPEP 409.03(g).

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

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[1] However, as a four month extension of time was necessary, Deposit Account No. 50-0878 has been charged the amount of $265, representing the difference between the $740 fee for a four month extension of time and the $475 fee for a three month extension of time (fees in effect on the petition filing date).

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

Cliff Congo
Petitions Attorney
Office of Petitions

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ROBERT D BUYAN
STOUT UXA BUYAN & MULLINS LLP
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IRVINE CA 92618

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In re Application of	:	
Xiangfeng Dai	:	
Application No. 10/672,926	:	DECISION REFUSING STATUS
Filed: September 26, 2003	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. CRICP-001A	:	

This is in response to the "REPLY TO DECISION", filed April 6, 2006, which is being treated as a renewed petition under 37 C.F.R. §1.47(b).

The renewed petition under 37 C.F.R. § 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on September 26, 2003, without an executed oath or declaration. Accordingly, on January 5, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing, together with the statutory basic filing fee. This Notice set a two-month period for reply.

In reply, applicant filed the a petition on July 12, 2004, and paid both the petition fee, the surcharge for late filing of the declaration, and the statutory basic filing fee. To make timely this reply, applicant included a three month extension of time

and a Certificate of Mailing dated July 6, 2004.[1] However, the petition was dismissed in a decision mailed on February 6, 2006. Rule 47 applicant: (1) failed to show that the legal representative was presented with the application papers; (2) failed to submit a proper oath or declaration; (3) did not provide a statement of the last known address of the legal representative; and (4) did not establish irreparable damage.

With the instant petition, Rule 47 applicant still has not submitted a proper oath or declaration. The declaration is proper in that it identifies the deceased inventor, together with his citizenship and mailing address. The declaration also properly identifies the non-signing legal representative, together with her information. However, the declaration is not signed by the Rule 47(b) applicant. As stated in MPEP 409.03(b):

> In addition to other requirements of law (35 U.S.C. 111(a) and 115), an application deposited pursuant to 37 CFR 1.47(b) must meet the following requirements:
>
> > (A) The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. Staeger v. Commissioner, 189 USPQ 272 (D.D.C. 1976), In re Striker, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).
> > (B) The 37 CFR 1.47(b) applicant must state his or her relationship to the inventor as required by 37 CFR 1.64.

---

[1] However, as a four month extension of time was necessary, Deposit Account No. 50-0878 was charged the amount of $265, representing the difference between the $740 fee for a four month extension of time and the $475 fee for a three month extension of time (fees in effect on the petition filing date).

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of Xiangfeng Dai Application No. 10/672,926 Filed: September 26, 2003 Attorney Docket No. CRICP-001A	: : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the request for reconsideration of petition under 37 CFR 1.47(b), filed October 5, 2006.

The petition under 37 C.F.R. § 1.47(b) is **GRANTED**.

The above-identified application was filed on September 26, 2003, without an executed oath or declaration. Accordingly, on January 5, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing, together with the statutory basic filing fee. This Notice set a two-month period for reply.

In reply, applicant a petition on July 12, 2004, and paid both the petition fee, the surcharge for late filing of the declaration, and the statutory basic filing fee. To make timely this reply, applicant included a three month extension of time and a Certificate of Mailing dated July 6, 2004.[1] However, the

[1] However, as a four month extension of time was necessary, Deposit Account No. 50-0878 was charged the amount of $265, representing the difference between the $740 fee for a four month extension of time and the

petition was dismissed in a decision mailed on February 6, 2006. Applicant filed a request for reconsideration on April 6, 2006, which was again dismissed in a decision mailed on May 5, 2006.

With the instant petition, made timely by obtaining a three month extension of time, petitioner has met the requirements for a grantable petition pursuant to 37 C.F.R. 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 legal representative at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The $510 fee for a three month extension of time has been charged to Deposit Account No. 50-0878, as authorized.

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

$475 fee for a three month extension of time (fees in effect on the petition filing date).

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OFFICE OF PETITIONS

DONG DAI
7201 SCHIRA CT
SUITE 3
BAKERSFIELD CA 93313

In re Application of XiangFeng Dai Application No. 10/672,926 Filed: September 26, 2003 Title: Moving Bed Adsorber/Desorber and Low Flow (High Yield) Desorber Devices	:	LETTER

Dear Dong Dai:

You are named as the legal representative of inventor XianFeng Dai in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the legal representative.

As the legal representative, 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

Robert D. Buyan
Stout, Uxa, Buyan & Mullins LLP
4 Venture, Suite 300
Irvine CA 92618
phone: 949-450-1750

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RUSSEL H. MARVIN
TORRINGTON RESEARCH COMPANY
89 COMMERCIAL BOULEVARD
TORRINGTON, CT 06790

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JAN 19 2010

OFFICE OF PETITIONS

In re Patent No. 7,052,184	:	
Issue Date: May 30, 2006	:	
Application No. 10/672,944	:	NOTICE
Filed: September 26, 2003	:	
Attorney Docket No. 3135-25	:	

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.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Mark J. Burns appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. 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.

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 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.

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.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MARK BURNS
HAUGEN LAW FIRM PLLP
121 SOUTH EIGHTH STREET, SUITE 1130
MINNEAPOLIS, MN 55402

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FULBRIGHT & JAWORSKI LLP
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

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In re Application of	:	
Sandro Pasquali	:	
Application No. 10/672,945	:	DECISION ON PETITION
Filed: September 29, 2003	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
65164/P006C1C2C1/10606085	:	

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 8, 2009.

The request is **APPROVED**.

The request was signed by Jody C. Bishop on behalf of all attorneys of record who are associated with customer No. 29053.

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

All future correspondence will be directed to the assignee at the address indicated below.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Simple.Com, Inc.
c/o Warga Professional Corporation
1090 Don Mills Road, Suite 500
Toronto, ON M3C 3R6
Canada

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COMMISSIONER FOR PATENTS
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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK NY 10020-1105

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OFFICE OF PETITIONS

In re Application of	:	
Glenn Leedy	:	DECISION ON PETITION
Application No. 10/672,961	:	
Filed: September 26, 2003	:	
Atty Docket No. ELM-2 CONT. 4	:	

This is a decision on the PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT BASED ON EVIDENCE THAT A REPLY WAS TIMELY MAILED OR FILED filed October 27, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed March 28, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective June 29, 2006. A courtesy Notice of Abandonment was mailed on October 10, 2006.

Petitioner maintains that on September 26, 2006, applicant mailed, using the Certificate of Mailing procedure of 37 C.F.R. § 1.10, a Request for Continued Examination, a Petition Under 37 C.F.R. § 1.136(a) for Extension of Time (including permission to charge the fee to a Deposit Account), a Reply to Office Action, and an Information Disclosure Statement. In support thereof, applicant submitted *inter alia* a copy of their itemized and date-stamped return postcard.

Petitioner's evidence has been reviewed, and is persuasive. 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 the items thereon on the date stamped thereon by the USPTO. However, consideration of their evidence is unnecessary. Their response, including an extension of time, is present in the application with a date of receipt of September 26, 2006.

Further, the three-month extension of time, required to make the response timely, was previously charged to petitioner's Deposit Account.

Accordingly, the Notice of Abandonment mailed October 10, 2006 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 2822 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response timely filed on September 26, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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APR 01 2005

TECHNOLOGY CENTER 3600

Naval Undersea Warfare Center
Division Newport Office of Counsel
1176 Howell Street, Code 000C
Bldg 112T
Newport, RI 02841

In re Application of:
Micheal T. Ansay et al
Application No. 10/672,969
Filed: September 29, 2003
For: SUBMARINE AIR BAG LAUNCH ASSEMBLY

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment filed December 22, 2004.

The petition is **DENIED.**

A review of the application file reveals the following. On September 29, 2003, applicant filed a Declaration and Power of Attorney. On pages one and two of the Declaration and Power of Attorney the correspondence address is listed as follows:

Office of Counsel, Bldg 112T
Naval Undersea Warfare Center
Division, Newport
1176 Howell Street
Newport, RI 02841-1708

On April 2, 2004 a first Office action rejection was mailed to the above-noted address, setting a three-month shortened statutory period for response. Since no response was received before the end of the six-month statutory period for response, the application became abandoned on October 3, 2004, and a Notice to that effect was mailed on December 6, 2004.

Applicant has filed the present petition to withdraw the holding of abandonment. Petitioner claims that the April 2, 2004 was not received. Petitioner further contends that the application was not properly associated with the applicant's customer number. Thus, according to applicant the April 2, 2004 Office action was mailed to the incorrect address.

Review of the file reveals that applicant submitted a change of address on September 23, 2004 well after the Office action mail date of April 2, 2004. Thus, petitioner's evidence of non-receipt of the Office action mailed April 2, 2004 is insufficient to withdraw the holding of abandonment, and the petition is **DENIED.**

There is a strong presumption that an Office communication **properly addressed and delivered to the United States Postal Services**, was in fact delivered to the addressee. An

allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The petitioner has not complied with the requirements (2) and (3) above. However, the office received the Change of Correspondence Address associated with applicant's customer number after the mail date of the Office action dated April 2, 2004. The Office action of April 2, 2004 was properly addressed to the correspondence address of record. Therefore, the application was properly abandoned, and the holding of abandonment will not be withdrawn.

1156 OG 53 does not apply to applicant's petition for withdraw of the holding of abandonment

For these reasons, applicant's petition to withdraw the holding of abandonment is **DENIED**.

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."

Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute;(2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate 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.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable.

Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 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.

The petition fee required by law for filing a petition under unavoidable standard is $500. The fee for a petition under the unintentional standard is $1,500. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

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

Telephone inquiries should be directed to the Office of Petitions Staff at (571) 272-3282.

Steven N. Meyers
Special Program Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/jwk: 03/22/05

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DIVISION NEWPORT
1176 HOWELL STREET, CODE 000C
BLDG 112T
NEWPORT RI 02841

In re Application of	:	
Michael T. Ansay et al.	:	DECISION ON PETITION
Application No. 10/672,969	:	TO WITHDRAW THE
Filed: September 29, 2003	:	HOLDING OF ABANDONMENT
For: SUBMARINE AIR BAG LAUNCH	:	
ASSEMBLY	:	

This is a decision on applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on May 24, 2005. There is no fee for this petition.

The petition is **GRANTED.**

A review of the file record reveals that the application became abandoned for failure to respond to the Office action mailed on April 02, 2004, which set a three-month extendable period for response. A Notice of Abandonment was mailed on December 06, 2004.

Applicant's petition contends that the Office action mailed on April 02, 2004 was never received.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

In support of the contention of non-receipt, applicant has provided a statement from the practitioner stating that the Office communication was not received, a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received, a copy of the file jacket, a copy of the docket record where the non-received Office action would have been entered had it been received and docketed, and, a copy of the docket records showing all responses due by practitioner's office around the three-month due date. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Office action mailed April 02, 2004 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513. It is noted that applicant has provided a response to this Office action along with this renewed petition.

It is noted that the correspondence received September 23, 2004 was to associate the application with Applicant's customer number. As this correspondence was submitted well after the Office action mail date of April 02, 2004 it has no bearing on the instant decision.

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

KJD/rjc: 08/18/05

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DERGOSITS & NOAH LLP
FOUR EMBARCADERO CENTER, SUITE 1450
SAN FRANCISCO CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
Katsin, Daniel H.	:	
Application No. 10/672,978	:	ON PETITION
Filed: September 27, 2003	:	
Attorney Docket No. 602.06	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 1794 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

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CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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In re Application of	:	
IBANEZ, et al.	:	
Application No. 10/673,007	:	DECISION ON PETITION
Filed: September 26, 2003	:	TO WITHDRAW
Attorney Docket No. LCTD-0006	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 23, 2006.

The request is **APPROVED**.

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

The request was signed by S. Maurice Valla on behalf of all attorneys of record who are associated with Customer No. 23377. All attorneys/agents associated with the Customer No. 23377 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.

A Review of the file discloses that a non-final Office action was mailed on June 22, 2006, which set forth a one month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) were available. To date, there is no indication that a reply to the Office action of June 22, 2006 has been received.

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

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: Carlos F. Ibanez
Vastmannagatan 95, 113 43
Stockholm, SWEDEN

cc: Richard J. Berman
ARENT FOX PLLC
1050 Connecticut Avenue, NW
Suite 400
Washington, D.C. 20036-5339

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/673,007	09/26/2003	Carlos F. Ibanez	LCTD-0006

CONFIRMATION NO. 1669

OC000000021272311

23377
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Date Mailed: 11/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

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

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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In re Application of
IBANEZ, et al.
Application No. 10/673,007
Filed: September 26, 2003
Attorney Docket No. LCTD-0006

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 23, 2006.

The request is **APPROVED**.

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

The request was signed by S. Maurice Valla on behalf of all attorneys of record who are associated with Customer No. 23377. All attorneys/agents associated with the Customer No. 23377 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.

A Review of the file discloses that a non-final Office action was mailed on June 22, 2006, which set forth a one month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) were available. To date, there is no indication that a reply to the Office action of June 22, 2006 has been received.

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

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: Carlos F. Ibanez
Vastmannagatan 95, 113 43
Stockholm, SWEDEN

cc: Richard J. Berman
ARENT FOX PLLC
1050 Connecticut Avenue, NW
Suite 400
Washington, D.C. 20036-5339

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/673,007	09/26/2003	Carlos F. Ibanez	LCTD-0006

CONFIRMATION NO. 1669

OC000000021272311

23377
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Date Mailed: 11/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

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

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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JUN 2 2004

Office of the Director
Group 3600

Max Stul Oppenheimer
P.O. Box 50
Stevenson, MD 21153

In re application of
Rung Fu Duo
Application No. 10/673,011 :
Filed: September 26, 2003 :
For: AUTOMATED MAGNETIC SORTER :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on January 12, 2004 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

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

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

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

KJD/vdb: 5/17/04

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OFFICE OF PETITIONS

Jonathan O. Owens
HAVERSTOCK & OWENS, LLP
162 North Wolfe Road
Sunnyvale, CA 94806

In re Application of :
Quan Vu, et. al. :
Application No. 10/673,020 : ON PETITION
Filed: September 25, 2003 :
Attorney Docket No. SONY-26000 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 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 Rejection of September 25, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 26, 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) an adequate statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2153 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.

Andrea Smith
Petitions Examiner
Office of Petitions

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MENDELSOHN, DRUCKER, & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA, PA 19102

Mail Date: 07/26/2010

Applicant	: Abdo Y. Alfakih	: DECISION ON REQUEST FOR
Patent Number	: 7646706	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/673,056	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1805** 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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OCT 6 2004

In re Application of	:	
William Hudgens	:	
Application No. 10/673,069	:	DECISION ON PETITION
Filed: September 26, 2003	:	
For: Rotary Motor	:	

This is a decision on the petition to make special filed on June 2, 2004. The petition is based upon the practice described in MPEP § 708.02(II) "Applicant's Health." Therefore, no petition fee is required.

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. 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 3745 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

Ramon L. Pizarro
3515 South Tamarac Drive
Suite 200
Denver, CO 80237

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SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA, GA. 30309-3592

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JAN 3 1 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Randall **HEATH** :
Application No. 10/673,074 :
Filed: September 26, 2003 :
Attorney Docket No. 043850.016 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 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 May 30, 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) was obtained. Accordingly, the above-identified application became abandoned on August 31, 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, a Request for Continued Examination, and the $405.00 filing fee; (2) the petition fee of $770.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of May 30, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Thurman K. Page at (571) 272-0602 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3637 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

David Bucci
Petitions Examiner
Office of Petition

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MYERS & KAPLAN
INTELLECTUAL PROPERTY LAW, L.L.C.
CUMBERLAND CENTER II
3100 CUMBERLAND BLVD, SUITE 1400
ATLANTA, GA 30339

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FEB 15 2008

In re Application of	:	
Charles JAMES, et al	:	
Application No. 10/673,086	:	DECISION ON PETITION
Filed: September 26, 2003	:	TO WITHDRAW
Attorney Docket No. 99-1220-CIP	:	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 9, 2007.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, assignee has obtained other counsel, does not meet any of the conditions set forth in 37 CFR 10.40, since Assignee has not properly intervened.

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

There is an outstanding Office action mailed January 16, 2008 that requires a reply by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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APR 2 1 2008

OFFICE OF PETITIONS

In re Application of:	:	
James et al.	:	DECISION GRANTING
Application No. 10/673086	:	37 CFR 1.47(a)
Title of Invention:	:	
APPARATUS AND METHOD FOR	:	
BAGGING ICE	:	

This Decision is in response to the "Petition Under 37 CFR 1.47(a) & (b) and 35 U.S.C. 116, Second Paragraph: Inventor Refuses to Join in Application for Patent," filed July 6, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). See, MPEP 409.03. The delay in treating the petition is regretted.

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, Mark Metzger, refuses to join in the application.

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 referred to Technology Center Art Unit 3754 for continued examination in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MR. MARK METZGER
C/O MR. STEPHEN H. MYERS, LLC
P.O. BOX 51222
LAFAYETTE, LA 70505-1222

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APR 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
James et al.	:	LETTER
Application No. 10/673,086	:	
Filing or 371(c) Date: 09/26/2003	:	
Title of Invention: APPARATUS AND	:	
METHOD FOR BAGGING ICE	:	

Dear Mr. Metzger:

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) 272-3232. 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
Attorney
Office of Petitions

CC: MYERS & KAPLAN
INTELLECTUAL PROPERTY LAW, L.L.C.
CUMBERLAND CENTER II
3100 CUMBERLAND BLVD , SUITE 1400
ATLANTA GA 30339

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Paper No.

JEFFREY C. HOOD
METERTONS, HOOD, KIVLIN & GEOTZEL
PO BOX 398
AUSTIN, TX 78767

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NOV 23 2004

OFFICE OF PETITIONS

In re Application of:
Wasserman et al.
Application No. 10/673,088
Filed: September 26, 2003
Title of Invention:
PLATING SYSTEM WITH COMPRESSION
DRILL GUIDE

DECISION GRANTING
STATUS UNDER
37 CFR 1.47(a)

This decision is in response to the Petition Under 37 CFR § 1.47, filed April 8, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). The delay in treating this petition is regretted.

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, Mark E. Pascual, refuses to join in the application.

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

The application file is being returned to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Attorney Advisor
Office of Petitions

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NIXON PEABODY LLP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER NY 14603-1051

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OFFICE OF PETITIONS

In re Application of	:	
O'Donnell et al.	:	
Application No. 10/673,098	:	ON PETITION
Filed: September 26, 2003	:	
Attorney Docket No. 22221/1090 (RU-339)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 6, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to rely in a timely manner to the non-final Office action mailed December 5, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on March 6, 2009. A Notice of Abandonment was mailed June 23, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

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[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

The instant petition lacks item(s) (3).

The petition claims in a declaration of Adam Forman that Mr. Forman did not intend to abandon application 10/673,098. However, in Mr. Forman's declaration under item 7, he clearly states that "Accordingly, I determined at this time that I unintentionally provided the wrong instructions to outside counsel stating "do not file a response" to the December 5, 2008, office action for U.S. Patent Application Serial No. 10/673,098". It would appear that the action was intentional.

Where the applicant deliberately permits an application to become abandoned, the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b).

Petitioner may wish to pursue reinstatement of the patent under the unavoidable provisions of 37 CFR 1.137(a). A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); **(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable**; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

---

[2] See MPEP 711.03(c)(III)(C) and (D).

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NOV 0 8 2005

TECHNOLOGY CENTER 2100

In re Application of: OGASAWARA, et al.
Application No. 10/673,162
Filed: September 30, 2003
For: STORAGE DEVICE SYSTEM AND STORAGE DEVICE SYSTEM ACTIVATING METHOD

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

This is a response to the petition filed 17 February 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, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 17 February 2004 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to discuss each of the references; only three of the nineteen references deemed "most closely related" are discussed in any detail. Additionally, the petition states that essentially the *entirety* of each of the independent claims is not disclosed by the references purported to be most closely related. Such a statement is not sufficient in distinguishing how each independent claim 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 **each** of the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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APR 2 7 2006

Technology Center 2100

In re Application of: Ogasawara, et al.
Application No. 10/673,162
Filed: November 30, 2003
For: STORAGE DEVICE SYSTEM AND STORAGE DEVICE SYSTEM ACTIVATING METHOD

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

This is a decision on the Request for Reconsideration filed January 9, 2006 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on June 6, 2005, supplemented on February 17, 2004 and dismissed on November 8, 2005.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

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

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

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

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

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

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Seagate Technology
c/o McDermott Will & Emery LLP
600 13th Street, NW
Washington, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of	:	
William Ching-Chit Hung	:	
Application No. 10/673,181	:	DECISION ON PETITION
Filed: September 30, 2003	:	TO WITHDRAW
Attorney Docket No. 036263-000049	:	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 May 24, 2006.

The request is **NOT APPROVED.**

A review of the file record indicates that Robert E. Krebs does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Note: The power of attorney filed December 5, 2005 appointing Robert E. Krebs attorney or agent of record by assignee was not accepted because the certificate required by 37 CFR 3.73(b) was not received.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Robert E. Krebs**
Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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SUITE 370
ALEXANDRIA VA 22314

In re Application of: Kitamura et al.
Application No. 10/673,195
Filed: September 30, 2003
For: COMPUTER SYSTEM

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

This is a response to the petition filed 11 March 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated.** The application will remain in the status of a new

application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 11 March 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to specifically point out how the language of claim 10 patentably distinguishes it from the references. The language purported to be in claim 10, "the first servers sends an identifier of a second storage device that stores duplicate data of the file *in response to the request*" (emphasis added), does not appear in this claim. Clarification is required.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
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In re Application of: Kitamura et al.
Application No. 10/673,195
Filed: September 30, 2003
For: COMPUTER SYSTEM

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

This is a response to the renewed petition filed 22 June 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 11 March 2005. 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 22 June 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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BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/21/2010

Applicant	: Xavier Montagne	: DECISION ON REQUEST FOR
Patent Number	: 7587649	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/673,211	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **633** 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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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OCT 31 2006
OFFICE OF PETITIONS

In re Application of :
Ishibashi et al. :
Application No. 10/673,238 : DECISION ON PETITION
Filed: September 30, 2003 :
Attorney Docket No. 1034301-000011 :

This is a decision on the "Petition Under Rule 1.182 To Withdraw Previously Submitted Terminal Disclaimer," filed June 6, 2006. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience.

Applicants assert that the terminal disclaimer filed on December 12, 2005, is not necessary to overcome the double patenting rejection set forth in the Office Action dated September 12, 2005. Therefore, applicants request withdraw of the earlier filed Terminal Disclaimer.

As the examiner has concurred, the requested relief can be favorably considered. Accordingly, the petition is granted.

The Office finance records indicate that applicants paid a $130.00 petition fee; however, the correct petition fee is $400.00. Therefore, the Office will charge the Deposit Account for the difference in the amount of $270.00, as authorized.

This matter is being referred to Technology Center Art Unit 1763 for correction of PALM and file records consistent with this decision.

Telephone inquiries regarding 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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KATTEN MUCHIN ZAVIS ROSENMAN
525 WEST MONROE STREET
CHICAGO, IL 60661-3693

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Oden L. Warren et al
Application No. 10/673,266
Filed: September 30, 2003
Attorney Docket No. 204694.00102

This is a decision on the petition under 37 CFR 1.137(b), filed December 9, 2004, 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 31, 2004, which set a shortened statutory period for reply of three (3) months. An RCE filed on August 30, 2004 is improper since the request was not accompanied by a submission as required by 37 CFR 1.114. Extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on September 1, 2004.

The above-identified application is being revived solely for purposes of continuity with a submission under 37 CFR 1.114 filed August 30, 2004.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is

being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

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

This matter is being referred to Technology Center 2878 for processing of the request for continued examination under 37 CFR 1.114 filed August 30, 2004 and for consideration of the concurrently filed amendment.

Wan Laymon

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

cc: WAYNE A. SIVERTSON
3433 BROADWAY STREET N.E.
SUITE 401
MINNEAPOLIS, MN 55413

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ALEXANDRIA, VA 22313-1404

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OFFICE OF PETITIONS

In re Application of	:	
Satoshi Deishi	:	
Application No. 10/673,272	:	DECISION GRANTING PETITION
Filed: September 30, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 009683-483	:	

This is a decision on the petition, filed February 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 29, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2676 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Feb9\673272.wpd

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

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Bausch & Lomb Incorporated
One Bausch & Lomb Place
Rochester NY 14604-2701

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OFFICE OF PETITIONS

In re Application of	:	
Mittelstein et al.	:	DECISION REFUSING STATUS
Application No. 10/673,296	:	UNDER 37 CFR 1.47(a)
Filed: September 29, 2003	:	
Attorney Docket No. P03115	:	

This is in response to the petition under 37 CFR 1.47(a), filed March 24, 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.** 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 item (1) set forth above.

The applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. *See* MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate non-signing inventor Robert Schauer, such that the declaration can be accepted under 37 CFR 1.47(a). Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor.

In order to show that a diligent effort was made to find or locate Robert Schauer, petitioner should, at the very least, conduct a search of the regional or national registry(s). The results of such search should be made in any future petition for reconsideration. *See* MPEP 409.03(d).

Additionally, petitioner should state whether he has access to inventor Schauer's personnel records and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? What does inspection of the phone directories for those address locations reveal?

Further, the petition fails to indicate that a complete copy of the application papers (specification, claims, drawings and oath or declaration) was ever mailed unsuccessfully to the inventor's last known address. From the evidence of record, it only appears that the inventor Schauer was mailed a copy of the documents that required his signature. If he was not presented with a copy of the application papers for this application, then he could not attest that he has "reviewed and understand the application papers" and could not execute the declaration he was requested to sign. Did he receive a copy of the application papers? The fact that an application may contain proprietary information does not relieve the rule 47 applicant of the responsibility to present the application papers to the joint inventors if the inventors are willing to receive the papers in order to sign the oath or declaration. Therefore, at the very least, petitioner should mail correspondence to the inventor's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the application papers (specification, claims, drawings, oath, etc.) to Mr. Schauer's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct.

If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to join in the application. **The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts.** It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Also, the record is not clear as to whether inventor Schauer cannot be found or if he refuses to sign. Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

In addition, the required petition fee of $130.00 was charged to Deposit Account No. 02-1425 as authorized in the Response to Notice to File Missing Parts, which was filed with this petition on March 24, 2004.

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 should be directed to Christopher Bottorff at (571) 272-6692.

David Bucci
Petitions Examiner
Office of Petitions

OIPE JC10 MAR 2 4 2004 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: M. Mittelstein, et al.	**Examiner: To be Assigned**
Serial No.: 10/673,296	**Atty. Docket No.: P03115**
Filed: September 29, 2003	**Art Unit: 3763**
For: A PERISTALTIC PUMP WITH A MOVEABLE PUMP HEAD	

STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NON-SIGNING INVENTOR UNDER 37 C.F.R. 1.47

Commissioner of Patents
Alexandria, Virginia 22313

07/18/2008 CKHLOK 00000020 021425 10673296
01 FC:1460 130.00 DA

HONORABLE SIR:

This is in Response to Notice to File Missing Parts mailed January 5, 2004.

One of the named co-inventors of the present invention, Robert Schauer, at a last known address of 3729 South Alder, Santa Ana, California 92707 has been unresponsive to numerous requests to sign the Declaration and Power of Attorney and Assignment documents for the present invention. The other named inventors have all signed the appropriate documents. On 19 November 2003, Mr. Schauer was first sent via Federal Express documents to sign, then again on 15 January 2004, the inventors were again sent a letter asking them to return the signed documents. The undersigned attempted to call inventor Schauer at his last known phone number of (714) 350-5671, which number had been disconnected.

Finally on 9 February 2004, Mr. Schauer was sent another Federal Express package including all the documents for his signature, and no response has been received from Mr. Schauer.

Therefore from the above stated facts, it is respectfully submitted that it has been established that diligent effort was made to secure the execution of the Declaration by co-inventor Schauer for the above-identified application. Therefore, this Statement of Facts is hereby submitted for filing on behalf of the non-signing inventor Schauer.

This Statement is being made by the undersigned who has first-hand knowledge of the facts recited herein.

Respectfully submitted,

Michael L. Smith
Reg. No. 35,685

DATE: March 19, 2004

Bausch & Lomb Incorporated
One Bausch & Lomb Place
Rochester, New York 14604-2701
TEL: 636-226-3197

OIPE JC10
MAR 2 4 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: M. Mittelstein, et al.	)	Examiner: To be Assigned
Serial No.: 10/673,296	)	Art Unit: 3763
Filed: September 29, 2003	)	Docket No.: P03115
Title: PERISTALTIC PUMP WITH A MOVEABLE PUMP HEAD	)	

Response to Notice to File Missing Parts mailed January 5, 2004

Mail Stop Missing Parts
Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Honorable Sir:

In response to the Notice to File Missing Parts mailed January 5, 2004, regarding the above-identified application, enclosed find Part 2 of the Formalities Letter, a properly signed Declaration and Power of Attorney in compliance with 37 CFR 1.63, and a Statement of Facts in Support of Filing on Behalf of Non-Signing Inventor under 37 C.F.R. 1.47.

Please charge the non-small entity surcharge set forth in 37 CFR 1.16(e) and any other required fees to Deposit Account No. 02-1425. Triplicate copies of this letter are provided herewith for billing purposes.

Should there be any questions regarding this communication, please contact the undersigned at (636) 226-3197.

Respectfully submitted,

DATE: March 19, 2004

Michael L. Smith
Reg. No. 35,685

Correspondence address:
Michael L. Smith
Bausch & Lomb Inc.
One Bausch & Lomb Place
Rochester, New York 14604-2701
TEL: 636-226-3197

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
Mittelstein et al.	:	DECISION REFUSING STATUS
Application No. 10/673,296	:	UNDER 37 CFR 1.47(a)
Filed: September 29, 2003	:	
Attorney Docket No. P03115	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 14, 2008.

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).

Petitioner asserts that the Declaration filed with the petition renders the previous petition under 37 CFR 1.47(a) moot in that the Declaration is signed by co-inventor Robert Schauer. However, this supplemental Declaration does not set forth the entire inventive entity as required by 37 CFR 1.67(a)(2). Therefore, the previous petition under 37 CFR 1.47(a) is not moot.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) and (2) set forth above.

As to item (1), as discussed in the decision mailed July 18, 2008, the showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate non-signing inventor Robert Schauer or that Mr. Schauer refuses to sign, such that the declaration can be accepted under 37 CFR 1.47(a). Rather, the present petition suggests that co-inventor Schauer can be found and is willing to sign, at least as the sole inventor.

As to item (2) above, the supplemental declaration lacks compliance with 37 CFR 1.63(a)(2) in that the supplemental declaration does not list all the named inventors. Petitioner's attention is directed to MPEP Section 602, which states:

> "Where joint inventors execute separate oaths or declarations, each oath or declaration should make reference to the fact that the affiant is a joint inventor together with each of the other joint inventors indicating them by name. This may be done by stating that he or she does verily believe himself or herself to be the original, first and joint inventor together with 'A' or 'A & B, etc."

Accordingly, a new declaration which lists all the inventors and is signed by co-inventor Robert Schauer is required to affect joinder. *See also* MPEP Sections 201.03 and 409.03(a). The Declarations filed March 24, 2004 already lists all of the inventors, are signed by four of the inventors and leave the signature block of co-inventor Robert Schauer blank.

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
By Internet:	EFS-Web[1]

Telephone inquiries should be directed to Christopher Bottorff at (571) 272-6692.

David Bucci
Petitions Examiner
Office of Petitions

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

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One Bausch & Lomb Place
Rochester NY 14604-2701

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OFFICE OF PETITIONS

In re Application of	:	
Mittelstein et al.	:	DECISION NOTING JOINDER OF
Application No. 10/673,296	:	INVENTOR AND PETITION
Filed: September 29, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. P03115	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 12, 2008. Papers filed on November 12, 2008 included a Declaration signed by a previously non-signing inventor, Robert Schauer, in compliance with 37 CFR 1.63.

The petition is **dismissed as moot**.

Further consideration under § 1.47(a) is not necessary in view of the joinder of the inventor on October 30, 2008, the date inventor Schauer signed the Declaration. This application does not have any Rule 1.47 status and no such status should appear on the record for this file. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(a).

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

By mail: Mail Stop PETITIONS
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Post Office Box 1450
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Randolph Building
401 Dulany Street
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By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries should be directed to Christopher Bottorff at (571) 272-6692.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ROGER A. GILCREST
250 WEST STREET
COLUMBUS, OH 43216-7513

In re Application of
Leyshon
Application No. 10/673,301
Filed: September 29, 2003
Attorney Docket No. HEA 1583-010

Decision on Petition

This a decision on the petition under 37 CFR 1.137(b), filed August 9, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 5, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 6, 2004. A Notice of Abandonment was mailed on November 26, 2004.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).[1] Therefore, the petition is granted and the application is revived.

Payment for a three month extension of time is unnecessary. The $490 payment will be credited back to petitioner's credit card.

The Office of Initial Patent Examination will be informed the application has been revived so that it may prepare the application for examination.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

[1] It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that 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.

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OFFICE OF PETITIONS

ROBIC
Centre CDP Capital
1001, Victoria Square-BLOC-8th Floor
Montreal, QC H2Z 2B7
Canada

In re Application of	:	
Timothy W. Chapman, et al.	:	
Application No. 10/673,316	:	DECISION ON PETITION
Filed: September 30, 2003	:	TO WITHDRAW
Attorney Docket No. 013642-0057	:	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 21, 2009.

The request is **APPROVED**.

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

The request was signed by Nathalie Jodoin on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

T. Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **SALFLEX POLYMERS, LTD.**
1925 Wilson Avenue
Weston, ON M9M 1A9
Canada

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/673,316	09/30/2003	Timothy W. Chapman	013642-0057

CONFIRMATION NO. 2267

POWER OF ATTORNEY NOTICE

20559
ROBIC
CENTRE CDP CAPITAL
1001, VICTORIA SQUARE - BLOC E - 8TH FLOOR
MONTREAL, QC H2Z 2B7
CANADA

OC000000038209970

Date Mailed: 10/09/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/21/2009.

- 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.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Suite 707
WASHINGTON DC 20006

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MAR 23 2009

OFFICE OF PETITIONS

In re Application of :
Es :
Application No. 10/673,322 : ON PETITION
Filed: September 30, 2003 :
Attorney Docket No. 19111.0124 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned July 26, 2008 for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 25, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed January 7, 2009.

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

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 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.

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 $1,110.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 2624 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/ALESIA M. BROWN/
Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/22/07

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/673338** Patent No.: **6937143**

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: _____

Acting SPE
SPE

2612
Art Unit

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UNITED STATES PATENT & TRADEMARK OFFICE
BPAI
600 DULANY STREET
ALEXANDRIA, VA 22313

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Lee Johnson, et al.	:	
Application No. 10/673,352	:	DECISION ON PETITION
Filed: September 30, 2003	:	TO WITHDRAW
Attorney Docket No. NC 84,495	:	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 4, 2008.

The request is **APPROVED**.

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

The request was signed by Rae Lynn Guest. Rae Lynn Guest has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **NAVAL RESEARCH LABORATORY**
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON DC 20375-5320

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CHARLES W. HANOR, P.C.
P. O. BOX 91319
SAN ANTONIO, TX 78209

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JUN 28 2007

OFFICE OF PETITIONS

In re Application of	:
Boris E. Paton et al	:
Application No. 10/673,358	: ON PETITION
Filed: September 20, 2003	:
Attorney Docket No.	:
7704.003DIV2	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 15, 2006, to revive the above-identified application.

The petition is **DISMISSED** as premature.

A review of the record discloses that a final Office action was mailed on September 28, 2006, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before December 28, 2006 or on or before March 28, 2007, with the appropriate extension of time fee. The present petition to revive was accompanied by a request for Continued Prosecution Application (treated as a Request for Continued Examination (RCE) under 37 CFR 1.114[1]) and an amendment, which is captioned for the reply to the Office action of June 29, 2006.

As this application was not abandoned at the time of filing of the RCE and reply (for the Office action of June 29, 2006) on November 15, 2006, and the record fails to show that the Examiner has held this application as abandoned, the petition is deemed to be premature at this time. Should the Examiner hold this application abandoned for failure to file a proper reply to the

---

[1] Effective July 14, 2003, the continued prosecution application (CPA) practice set forth in 37 CFR 1.53(d) was eliminated as to utility and plant applications. An improper CPA in a utility application filed on or after June 8, 1995 will be treated as a request for continued examination under 37 CFR 1.114. *See* MPEP Sections 201.06 and 212.06(d).

outstanding Office action of September 28, 2006, then it would be appropriate at that time to submit a petition to revive.

In view of the dismissal of this petition as premature, petitioner may request a refund of the $750 submitted by writing to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450.

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 above address of record until otherwise notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2318.

This application is being referred to Technology Center AU 3739 for processing of the RCE and for such further action as the nature of the case requires.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Charles W. Hanor
750 Rittiman Road
San Antonio, TX 78205

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P.O. Box 91319
San Antonio TX 78209

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OCT 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Paton et al.	:	
Application No. 10/673,358	:	DECISION
Filed: September 26, 2003	:	ON PETITION
Atty Docket No. 7704.003DIV2	:	

This is in response to the paper filed April 9, 2009, requesting that the above-identified application be reinstated pursuant to 37 CFR 1.137(a).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)," as appropriate. Extensions of time are permitted under § 1.136(a).

The above-identified application became abandoned for failure to file a response to the NOTICE OF NON-COMPLIANT AMENDMENT mailed June 12, 2008. The Notice set a one-month period for reply. Extensions of time were obtainable under 37 CFR 1.136(a). No response was received and no extension was obtained. Accordingly, the above-identified application became abandoned on July 13, 2008. A courtesy Notice of Abandonment was mailed on February 9, 2009.

In response, this petition was filed. The petition includes a proposed response in the form of an amendment and payment of the petition fee. The petition fee paid is the lesser fee for consideration of revival of the application based on unavoidable delay. However, petitioner maintains that the failure to

respond was completely unintentional as the "June 1, 2008" Notice was never received. Petitioner states that this conclusion was reached after searching our docketing system, electronic files and paper files.

A grantable petition under § 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 C.F.R. § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to § 1.137(d). The instant petition fails to meet requirement (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

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 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

A review of the application file reveals no irregularities in the mailing of the Notice of Non-compliant Amendment mailed June 12, 2008. The Notice was properly addressed to the attorney of record at the correspondence of address of record and was not returned to the United States Patent and Trademark Office by the postal service. Thus, there is a strong presumption that the correspondence was properly mailed to the petitioner at the correspondence address of record. As stated in MPEP 711.03(c):

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.
>
> A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The practitioners' showing of non-receipt is not adequate. Practitioner states that the Notice was never received based on a search of the docketing system, electronic files and paper files. However, practitioners do not provide, as described

above, evidence of a reliable docketing system. To meet the required showing, petitioner needs to at least provide evidence of a reliable docketing system and of the absence of entry of receipt of this Notice in the docketing system to support a conclusion that the Notice was not received.

Having not made an adequate showing of non-receipt of the Office action, the petition cannot be granted under §1.137(a). On renewed petition, petitioner may attempt to meet the showing of non-receipt.

In the alternative, while the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a request for reconsideration pursuant to 37 CFR § 1.137(b) on the basis of unintentional delay. A grantable petition under § 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 set forth in 37 CFR §1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(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 FAX: (571) 273-8300
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

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) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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CHARLES W. HANOR, P.C.
750 Rittiman Road
SAN ANTONIO TX 78209

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of	:	
Paton et al.	:	
Application No. 10/673,358	:	DECISION
Filed: September 26, 2003	:	ON PETITION
Atty Docket No. 7704.003DIV2	:	

This is in response to the petition under 37 CFR 1.137(b) filed February 17, 2010.

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

The above-identified application became abandoned effective July 13, 2008 for failure to file a response to the NOTICE OF NON-COMPLIANT AMENDMENT mailed June 12, 2008. By decision mailed October 27, 2009, the initial petition under 37 CFR 1.137(a) filed April 9, 2009 was dismissed. The decision set a two-month period for response, with extensions of time obtainable under § 1.136(a).

Preliminarily, petitioner asserts that this petition was not earlier filed in response as the decision was not received. Petitioner asserts on this basis that the entire delay in filing this reply is unintentional.

The required reply in the form of an amendment was previously submitted on April 9, 2009. The petition includes payment of the petition fee set forth in 37 CFR § 1.17(m) and the required statement of unintentional delay. No terminal disclaimer is required.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Mailed MAY 18 2004

Paper No.

In re Application of	:	
Quinn, Thomas	:	DECISION
Serial No. 10/673,385	:	ON
Filed: September 25, 2003	:	PETITION
For: LOW ODOR, LIGHT COLOR, DIS-	:	UNDER 708.02 (VIII)
POSABLE ARTICLE CONSTRUCTION	:	
ADHESIVE	:	

This is a decision on the petition filed on September 25, 2003, requesting that the above-identified application be granted Special Status under Sections 37 C.F.R. 1.102 and MPEP 708.02 II.

The petition has been considered and found to comply with the requirements set forth under the above noted sections. Accordingly, the petition is **GRANTED**.

Marian C Knode

Marian C. Knode, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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Steven M. Rabin
RABIN & BERDO, P.C.
1101 14 Street, N.W.
Suite 500
Washington, DC 20005

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JUL 3 1 2007

OFFICE OF PETITIONS

In re Patent No. 6,921,870	:	
Issue Date: July 26, 2005	:	
Application No. 10/673,387	:	NOTICE
Filed: September 30, 2003	:	
Patentee(s): Yih-Yuan Lan, et. al.	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed September 29, 2006. 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**. Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

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NOV 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Ming-Shun Yang	:	
Application No. 10/673,414	:	DECISION
Filed: September 30, 2003	:	ON PETITION
Title of Invention:	:	
PROTECTIVE COVER FOR MOTOR	:	
VEHICLES	:	

This is a decision in response to the Petition Under 37 CFR § 1.137(b), filed November 18, 2005, 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 non-final Office action, mailed August 2, 2004. The Office action set a three (3) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, this application became abandoned on November 32004. A Notice of Abandonment was mailed March 4, 2005.

With the instant petition, Applicant has filed an Amendment in response to the August 2, 2004 Office action. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 3612 for processing of the Amendment 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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JAN 09 2009

In re Application of	:	
Chun-I Sun	:	
Application No. 10/673,420	:	DECISION ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. BHT-3127-66	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 2008, and resubmitted on November 21, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 6, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 7, 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 (more than 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 September 7, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Bruce H. Troxell was counsel of record at the time of abandonment, Bruce H. Troxell should explain why this application became abandoned while it was under their control and what efforts Bruce H. Troxell made to further reply of itself and with whom this matter was discussed outside of Bruce H. Troxell. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Bruce H. Troxell, 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 (here, 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 QUALCOMM Incorporated 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.

To expedite consideration, petitioner may wish to contact JoAnne Burke at (571) 272-4584 regarding the filing of the renewed petition under 37 CFR 1.137(b).

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

G. LINK CO., LTD.
3550 BELL ROAD
MINOOKA IL 60447

MAILED

SEP 14 2009

OFFICE OF PETITIONS

In re Application of Chun-I Sun Application No. 10/673,420 Filed: September 30, 2003 Attorney Docket No. BHT-3127-66	: : : : :	DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 6, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 7, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2622 for appropriate action by the Examiner in the normal course of business.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

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AUG 15 2007

OFFICE OF PETITIONS

In re Application of

KNOBLACH, et al.
Application No. 10/673,474
Filed: September 30, 2003
Attorney Docket No. **446132000400**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 18, 2007.

The request is **APPROVED.**

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

The request was signed by Peter J. Davis on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed May 16, 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: **GERALD M. KNOBLACH**
117 S. LAKEVIEW BOULEVARD
CHANDLER, AZ 85225

cc: **DARBY & DARBY PC**
1500 K STREET NW, SUITE 250
WASINGTON, DC 20005-1714

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Hollingsworth & Funk, LLC
Suite 125
8009 34th Avenue South
Minneapolis MN 55425

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of :
Tokkonen : DECISION ON PETITION
Application No. 10/673,526 :
Filed: September 29, 2003 :
Docket No.: KOLS.051PA :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 14, 2008.

This application was held abandoned for failure to timely submit a proper reply to the final Office action mailed September 27, 2007. The final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed April 3, 2008.

Petitioner asserts that a response to the final Office action was timely submitted on April 1, 2008 and have provided as proof of mailing and proof of USPTO receipt a return postcard dated April 1, 2008 acknowledging receipt of the reply (including an extension of time and an RCE). Further, the copy of the reply submitted herewith bears a certificate of mailing date of March 27, 2008 in accordance with 37 CFR 1.8.

The original response submitted April 1, 2008 has been located in the application file.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center 2100 for processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Alan F. Wolfschoon-Pombo	: DECISION ON REQUEST FOR
Patent Number	: 7579029	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/673,535	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **989** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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AUG 24 2007

OFFICE OF PETITIONS

FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of Axel Spriesterbach, et al. Application No. 10/673,561 Filed: September 30, 2003 Attorney Docket No. 13909-103001 /	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed April 2, 2007.

The request is **APPROVED**.

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

The request was signed by Scott R. Boalick on behalf of himself.

Scott R. 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 July 31, 2007 that requires a reply by the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 1 9 2004

OFFICE OF PETITIONS

BURNS DOANE SWECKER & MATHIS L.L.P
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of Mattson et al. Application No. 10/673,566 Filed: September 30, 2003 Attorney Docket Number: 027557-106	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR §1.47(a), filed February 26, 2004.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR §1.136(a).

The above-identified application was filed on September 30, 2003, without a signed oath or declaration. Accordingly, on December 23, 2003, a " Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision, an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of February 23, 2004.

In response, on February 26, 2004, applicant submitted a $130.00 surcharge for late filing oath or declaration fee, petition, and a partially executed declaration. To make timely a one month extension of time was provided. A review of the record shows a petition fee was not received. Accordingly, deposit account no. 02-4800 is being charged the $130.00 petition fee.

A grantable petition under 37 CFR §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been

presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 ; (3) the petition fee; and, (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) as set forth above.

As to item (1), where an inventor cannot be reached as in the case of inventor Ulf Mattsson, rule 47 applicant must demonstrate diligent efforts were made to find or reach a non-signing inventor. See MPEP 409.03(d). The statements made in the petition do not illustrate "diligent effort" was made to locate inventor Mattsson. Although rule 47 applicant indicates the assignee was contacted to ascertain the address of inventor Mattsson, these actions are not sufficient to establish diligent effort was made to locate inventor Mattsson. Petitioner also indicates attempts to contact inventor Mattsson via electronic mail were not successful. Did rule 47 applicant search for inventor via an electronic database? Did applicant ask the other inventor or colleagues for the address of inventor Mattsson? The e-mail correspondence from Esther Grant, patent administrator indicates that inventor Mattsson may have relocated to Sweden. Did rule 47 applicant attempt to obtain a more current address in Sweden? Applicant should present a signed statement of facts from a person that has first hand knowledge of the diligent efforts made to locate the non-signing inventor. Applicant should present copies of documentary evidence that support a finding that the non-signing inventor could not be found or reached and the steps taken to locate the non-signing inventor. Accordingly, Rule 47 applicant failed to show or provide proof the inventor can not be reached.

Thus, rule 47 applicant has failed to provide sufficient evidence to warrant a finding of diligent effort.

If applicant provides sufficient evidence that diligent effort has been made to locate the inventor and inventor can not be located, 47 applicant is not required to send a copy of the application.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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AUG 2 0 2004

OFFICE OF PETITIONS

In re Application of
Mattson et al.
Application No.10/673,566
Filed: September 30, 2003
Attorney Docket Number: 027557-106
Title: Integrated Circuit

DECISION

This is in response to the petition under 37 CFR 1.47(a), filed July 15, 2004.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be **Dismissed As Moot** . This application does not have 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).

Since petitioner submitted this joinder within the two month period for reply a second petition fee is not required. Accordingly, deposit account 02-4800 will be credited with $130.00.

This application will be 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

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P.O. BOX 1450
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LOWE HAUPTMAN BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Jose Wei	:	
Application No. 10/673,585	:	
Filed: September 30, 2003	:	
Atty Docket No.: 3221/16	:	

This is a decision on the Petition to Withdraw Abandonment, filed April 10, 2006. 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 respond to the non-final Office action, mailed March 28, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on June 29, 2005. A Notice of Abandonment was mailed January 10, 2006.

Petitioner avers non-receipt of the non-final office action, mailed March 28, 2005. Applicant provides that the correspondence address was as specified in the customer number filed with the application transmittal form. A review of the Transmittal Form reveals that the customer number thereon differs from the typed correspondence address also on the Transmittal Form. As provided in the Manual of patent Examining Procedure, 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. MPEP 601.03. The Office inadvertently entered the typed correspondence address.

In view of the above, the petition is granted. The Notice of Abandonment is hereby withdrawn. No fee has been charged and none is due.

The application file is being referred to Technology Center Art Unit 3654 for re-mailing the Office action.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALAN BURNS
108 RAMONA RD.
PORTOLA VALLEY, CA 94028

SEP 20 2005

In re Application of:	:	
Burns	:	DECISION ON PETITION
Serial No.: 10/673,599	:	TO MAKE SPECIAL
Filed: September 29, 2003	:	
Title: MAGNETIC LIQUID CRYSTAL DISPLAY	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed April 1, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from the inventor, Alan Burns, stating that he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

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

Inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OCT 14 2004

In re Application of	:	
Wayne Anderson et al.	:	
Serial No. 10/673,604	:	DECISION ON PETITION
Filed: September 29, 2003	:	TO MAKE SPECIAL
For: MULTIPLE-IN-1 PRECISION HAND	:	
TOOL	:	

Applicant's petition, filed November 12, 2003, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Lackenbach Siegel, LLP
One Chase Road
Scarsdale, NY 10583

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VIXS SYSTEMS, INC.
1210 SHEPPARD AVE., E.
SUITE 800
TORONTO ON M2K 1E3 CA CANADA

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DEC 15 2009

OFFICE OF PETITIONS

In re Application of Steve Zhihua Zeng Application No. 10/673,612 Filed: September 29, 2003 For: METHOD AND SYSTEM FOR NOISE REDUCTION IN AN IMAGE	:	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed April 16, 2009, is accepted as having been unintentionally delayed.

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MATTHEW A. NEWBOLES
STETINA BRUNDA GARRED &
BRUCKER
Suite 250
75 Enterprise
Aliso Viejo, CA 92656

COPY MAILED

JAN 0 4 2006

OFFICE OF PETITIONS

In re Application of

Harold Bruce

Application No. 10/673,619

Filed: September 29, 2003

Attorney Docket No. BRUCH 001B

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 11, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time pursuant to 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 12, 2004. A Notice of Abandonment was mailed on March 18, 2005.

The amendment filed December 9, 2005, is noted and made of record.

The application is being forwarded to Technology Center 3600, GAU 3617 for further processing.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Ex. S. Ganey

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/07

TO SPE OF : ART UNIT 3752

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/623,625 Patent No.: 7172137

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: Claims 4, 5, 6, 7, 8 are renumbered do to claim dependency and the Final numbering. These claims were originally numbered as 4(6), 5(7), 6(8), 7(4) and 8(5), ie: New claim # (Old claim #).

[signature] 3752
SPE Art Unit

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

Date Mailed : 06/22/07

Patent No. : 7172137 B2
Patent Issued : 02/06/07
Docket No. : **P06057US00**

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.

Respecting the alleged errors in the documents filed on 05/30/07; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES IA 50309-2721

LMN

Ex. S. Ganey

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/07

TO SPE OF : ART UNIT 3752

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/623,625 Patent No.: 7172137

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: Claims 4, 5, 6, 7, 8 are renumbered do to claim dependency and the Final numbering. These claims were originally numbered as 4(6), 5(7), 6(8), 7(4) and 8(5), ie: New claim # (Old claim #).

[signature] 3752
SPE Art Unit

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LINIAK BERENATO & WHITE, LLC
SUITE 240
6550 ROCK SPRING DRIVE
BETHESDA, MD 20817

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MAR 2 7 2006

OFFICE OF PETITIONS

In re Application of	:	
Saied Hussaini, et al.	:	
Application No. 10/673,632	:	ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. 8312.174	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (571) 272-3213.

Denise Pothier
Petitions Examiner
Office of Petitions

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6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA MD 20817

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JAN 25 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Massey et al.	:
Application No. 10/673,639	:
Filed: September 30, 2003	:
Attorney Docket No. 081589-0306105	:

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 13, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 3600 for further examination.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVENUE
SUITE 2400
AUSTIN, TX 78701

Mail Date: 04/21/2010

Applicant	: Elof Eriksson	: DECISION ON REQUEST FOR
Patent Number	: 7666134	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/673,661	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1035** 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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DIW Sep-07

PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

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SEP 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Jacob et al.	:	
Application Number: 10/673678	:	DECISION ON PETITION
Filing Date: 09/29/2003	:	
Attorney Docket Number:	:	
NVDA/P002844	:	

This is a decision on the petition styled under 37 CFR 1.47(a) and filed on 30 July, 2007, which is treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR 1.131 in that it requires that a declaration filed thereunder by signed by all inventors.[1]

The petition is **granted**.

In view of the efforts recounted to obtained the signature of joint inventor Rojit Jacob, it is agreed that justice would be served by waiving the requirement for his signature on the declaration filed under 37 CFR 1.131.

It is noted that the fee for a petition under 37 CFR 1.183 is $400.00. Accordingly, the balance due has been charged to counsel's deposit account as authorized in the papers filed with the present petition.

The application is being referred to the Technology Center for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] Once an application has received a fully executed oath or declaration under 37 CFR 1.63 and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. See MPEP 603.

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Morris Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road, NE
Atlanta, GA 30326-1044

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DEC 2 2 2005

OFFICE OF PETITIONS

In re Patent No. 6,817,897	:	
Issue Date: November 16, 2004	:	
Application No. 10/673,690	:	ON PETITION
Filed: September 29, 2003	:	
Patentee(s): Alexander Chee	:	

This is a decision on the petition filed July 5, 2005, which is being treated as a request under 37 CFR 3.81[1], to add 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**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate 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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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Lisa Donnelly et al.	:	
Application No. 10/673,737	:	DECISION GRANTING PETITION
Filed: September 29, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MIT-5021	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 9, 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 8, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3733 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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/673,751	09/29/2003	3624	2172	9400-57	6	43	15

CONFIRMATION NO. 1479

CORRECTED FILING RECEIPT

OC000000012318289

39072
MYERS BIGEL SIBLEY & SAJOVEC, P.A.
P.O. BOX 37428
RALEIGH, NC 27627

Date Mailed: 04/08/2004

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)

Wealthy Desai, Atlanta, GA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/19/2003

Projected Publication Date: 03/31/2005

Non-Publication Request: No

Early Publication Request: No

Title

Systems, methods and computer program products for providing customer sales information

Preliminary Class

705

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

GRANTED

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

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

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

NOT GRANTED

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/673,752	09/29/2003	2123	834	5577-277	5	20	4

CONFIRMATION NO. 1478

CORRECTED FILING RECEIPT

OC000000011878197

Robert M. Meeks
Myers Bigel Sibley & Sajovec, P.A.
P. O. Box 37428
Raleigh, NC 27627

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)

Carol Ann Jones, Raleigh, NC;
Patrick McGowan, Stoney Creek, NC;
Christopher Joseph Paul, Durham, NC;
Shankar Ramaswamy, Chapel Hill, NC;
Cesar A. Wong, Morrisville, NC;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/19/2003

Projected Publication Date: 03/31/2005

Non-Publication Request: No

Early Publication Request: No

Title

Methods, systems and computer program products for creating user interface to applications using generic user interface templates

Preliminary Class
703

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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JOSEPH P. CURTIN
1489 NW. MORGAN LANE
PORTLAND, OR 97223

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AUG 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Satashi Yamamoto	:	
Application No. 10/673,768	:	
Filed: September 29, 2003	:	DECISION
Attorney Docket Number:	:	ON PETITION
HSJ920030123US1	:	

This is a decision in response to the Petition Under 37 CFR § 1.137(b), filed March 9, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed December 14, 2004. The Office action set a three (3) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, this application became abandoned March 15, 2005. A Notice of Abandonment was mailed October 12, 2005.

With the instant petition, Applicant has filed a response to the Office action. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 2651 for processing of the Response 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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JOSEPH P. CURTIN
1469 N.W. MORGAN LANE
PORTLAND, OR 97229

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JUL 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Satoshi Yamamoto	:	
Application No. 10/673,771	:	ON PETITION
Filed: Spetember 29, 2003	:	
Title of Invention:	:	
SERVO SELF-WRITE DISK DRIVE	:	
WITH DUAL-STAGE ACUTATOR	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, and on the request to correct the title of the invention, filed March 9, 2006. The delay in treating this petition is regretted.

The petition is **granted in part**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed December 14, 2004. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on March 15, 2005. A Notice of Abandonment was mailed April 26, 2005.

With the instant petition Applicant has submitted the issue fee.

Applicant also requests a Corrected Filing Receipt correcting the title of the invention. The request is made in the last paragraph of a declaration filed in support of this petition.

Applicant is advised that 37 CFR 1.4(c) requires separate matters to be submitted on separate papers.

Regarding Applicant's request, Office records indicate that a corrected filing receipt was mailed March 15, 2006, to above address (the same address appearing on the Issue Fee Transmittal Form filed with the instant petition).

Further to this, the address on the petition is different from the address of record. If Petitioner desires to receive further correspondence with respect to this application, a change of correspondence address must be filed. A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until instructions to the contrary are received[1].

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

Cc: Darren Gold
5600 Cottle Road NHGB/0412
San Jose, CA 95193

[1] The office notes that a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address, was filed December 15, 2005; however, the document was executed by an unidentified party and no statement under 37 CFR 3.73(b) accompanied the document. As such, the attempt to revoke/appoint an attorney and change the correspondence address of record was ineffectual.

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WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of :
Saleh et al. :
Application No.10/673,776 : ON PETITION
Filed: September 29, 2003 :
Title of Invention: Contact Manipulation and :
Retrieval System

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2007, to revive the above-identified application.

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed October 3, 2006. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on January 4, 2007. This decision precedes the mailing of a Notice of Abandonment.

This petition is hereby **GRANTED**.

The Office acknowledges receipt of the amendment submitted with the petition.

This application is being forwarded to Technology Center 2600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application of
Voellmicke, et al.
Application No. 10/673,826
Filed: September 29,2003
Attorney Docket No. **DEP-5164**

ON PETITION

This is in regarding the papers filed May 19, 2009, which will be treated as a petition under 37 CFR 1.137(b).

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 application became abandoned for failure to respond in a timely manner to the non-final Office action mailed October 6, 2008. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was not received within the allowable period and the application became abandoned on January 9, 2009. A Notice of Abandonment was mailed on May 19, 2009.

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 pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional 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(c).

The instant petition does not satisfy the requirements of item (3) above.

As to Item (1), the Request for Continued Examination (RCE) filed May 19, 2009, is not a proper response to the non-final Office Action. An RCE is only a proper only after a final Office action has been issued or the claims have otherwise been twice rejected. The renewed petition must be accompanied by a proper response to the non-final Office action which would include an amendment or a continuing application.

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

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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SEP 25 2009

OFFICE OF PETITIONS

In re Application of
Voellmicke, et al.
Application No. 10/673,826
Filed: September 29,2003
Attorney Docket No. **DEP-5164**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed October 6, 2008. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was not received within the allowable period and the application became abandoned on January 9, 2009. A Notice of Abandonment was mailed on May 19, 2009.

The amendment filed September 10, 2009, is noted.

The application is being forwarded to Technology Center 3700, GAU 3731 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-20-07

TO SPE OF : ART UNIT 1725

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/673828 Patent No.: 7129438

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

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

Please check Assignee + Drawings

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Assignees address correction – OK.
Correction of typographical error on figure 11.
Approved by Examiner Elve (AE) 4/3/07

SPE

1725
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT PACKARD COMPANY
P O BOX 272400 3404 E HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

COPY MAILED

JUN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Hallisey, et al.	:	
Application No. 10/673,834	:	ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. 200208211-1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative to revive under 37 CFR 1.137(a), filed May 29, 2008.

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

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

The application was held abandoned due to failure to timely file a reply to the non-final Office action mailed September 5, 2007. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on December 6, 2007. The Office mailed a Notice of Abandonment on March 18, 2008.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office

action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

With the instant petition, petitioner has submitted a copy of a proper docket report, showing all of his replies docketed for the due date from the time period of September 5, 2007 to December 5, 2007. An entry for the instant application is absent, supporting the conclusion that the Notice of Allowance was not received. In addition, petitioner has stated that the Office action was not received, and attested to the fact that he searched the file jacket and docket records.

The matter is being forwarded to Group Art Unit 2179 for re-mailing of the September 5, 2007 Office action, setting a new period for reply.

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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[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Edward L. Linsley
P.O. Box 238
Wetumpka, AL 36092

COPY MAILED

JUN 0 7 2006

OFFICE OF PETITIONS

In re Application of Linsley :
Application No. 10/673,866 :
Filing Date: November 22, 2005 :
For: Twister Wings Sailboat :

Decisions on Petition

This decision is in response to the papers filed on April 7, 2006, which are being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment, a petition under 37 CFR 1.181 to withdraw the Notice to File Missing Parts mailed December 20, 2005,[1] and a petition under 37 CFR 1.53 for a filing date of September 29, 2003.

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

The petition under 37 CFR 1.181 to withdraw the Notice to File Missing Parts mailed on December 20, 2005, is **dismissed as moot**.

The petition under 37 CFR 1.53 is **dismissed**.

Facts:

The application was filed on September 29, 2003.

Applicant received a phone call on October 6, 2003, from Ms. Streater at the USPTO. Ms. Streater informed applicant that his credit card had been charged the application filing fee and a fee for four independent claims. Ms. Streater also informed applicant of his application number.

On October 30, 2003, petitioner filed a "Request for Certificate of Correction."[2] Petitioner sought to correct errors in the specification and abstract. Specifically, petitioner sought to delete a reference to Figure 9 in paragraph 68 of the specification and to delete a reference to Figures 1 and 5 in the first sentence of the abstract. On the same date, petitioner also filed a paper entitled "Submission of Corrected Drawings." Petitioner stated he was unsure if sheet 5 of the drawings filed as part of the original application papers had included reference numbers 24 and 34 for Figure 7. Petitioner submitted a new, corrected version of sheet 5 of the drawings.

[1] The Office notes a duplicate Notice to File Missing Parts was also mailed on December 21, 2006. Any future reference to the December 20, 2006 Notice should be interpreted to also refer to the December 21, 2006 Notice.

[2] The Office notes that Certificates of Correction are only applicable to patents, not to patent applications.

The original application papers were "scanned" into an electronic file wrapper. The "Table of Contents" in the image file wrapper *appears* to indicate the original application included:

31 pages of specification, not including claims or abstract
1 page of claims
1 page of abstract
6 sheets of drawings
2 pages of oath or declaration
1 page of IDS
18 pages of non-patent literature related to IDS
1 page of petition
5 additional pages the exact nature of which is unclear

Prior to August 10, 2005,the USPTO discovered the original application papers were inaccessible because they had been incorrectly scanned and indexed. The USPTO was unable to locate the original physical application papers. The Office notes the papers mailed October 30, 2003, were properly scanned and indexed into the Image File Wrapper.

A "Notice Under 37 CFR 1.251 - Pending Application," was mailed to petitioner on August 10, 2005. The Notice stated,

> The file on the cover sheet cannot be located after a reasonable search. Therefore, the Office is initiating the reconstruction of the file of the above-identified application.... Applicant is hereby requested to provide a copy of applicant's record (if any) of all the correspondence between the Office and applicant for the above-identified application [and] a list of such correspondence, and a statement the copy is a complete and accurate copy of applicant's record of all of the correspondence between the Office and the applicant.

Petitioner filed a reply on August 22, 2005. Petitioner stated the copy of the papers being submitted were a copy of all correspondence between the Office and applicant. However, petitioner's reply did not include a copy of *all* correspondence between the Office and applicant. Specifically, the reply did not include a copy of the original application papers filed on September 29, 2003. The specification, claims, abstract and drawing pages filed on August 22, 2005, consisted only of copies of papers filed on October 30, 2003.

Since petitioner's reply stated it included a copy of <u>all</u> the papers filed by petitioner or received by petitioner, the Office treated the papers filed on August 22, 2005, as if the papers were the only papers ever filed for the application. In other words, the "application" included:

2 pages of specification,
1 page of abstract, and
1 sheet of drawings.

A "Notice of Incomplete Nonprovisional Application" was mailed on October 28, 2005. The Notice stated a filing date had not been accorded to the application because the specification

failed to include at least one claim. The Notice stated the filing date for the application would be the date the Office received one or more claims. The Notice stated the oath/declaration was missing as well as Figures 6, 9, and 10, referenced in the specification. The Notice stated petitioner owed negative $168 (the sum which had been charged previously for the four excess independent claims).

On November 22, 2005, petitioner filed a "Response to Notice of Nonprovisional Application, Dated 10/28/05." Petitioner also submitted $400.

Petitioner's response stated the specification had included at least one claim. Specifically, petitioner stated 7 claims had been included on page 31 of the specification. Petitioner submitted a copy of page 31 of the specification.

Petitioner's response stated that a declaration had been included with the original papers. Petitioner submitted a new declaration.

Petitioner's response stated that Figures 6, 9, and 10 had been filed with the application. Petitioner stated the drawings had included 13 figures on 6 pages. Petitioner submitted a new copy of the drawings. The Office notes the new set of drawings included 7 sheets. A copy of the seventh sheet is attached to this decision.

Petitioner has stated the Office never returned the postcard receipt submitted with the application. However, the papers filed on November 22, 2005, did include a copy of the postcard filed with the Office. The postcard stated the following items had been filed as part of the application:

> 32 pages of specification including claims, Abstract, Index and Writing Format
> 6 sheets of drawings including 13 Figures

The postcard also stated the following papers had been filed with the original application:

> Prior Art Patent Search
> Prior Manufactured Art
> Prototype Development
> Transmittal Sheet
> 2 copies of 2 pages of Fee Transmittal
> 2 pages of signed declaration
> Information Disclosure Statement
> Petition to Make Special
> Disclosure Document Reference Letter

Although petitioner's response contended the specification had included 31 pages, petitioner only supplied a copy of page 31. As a result, the Office had received the following papers *after* it mailed the Notice under 37 CFR 1.251 on August 10, 2005:

> 3 pages of specification including 1 page of claim,

1 page of abstract, and
7 sheets of drawings.

The Office of Initial Patent Examination did not forward petitioner's November 22, 2005 response to the Office of Petitions. Instead, the Office of Initial Patent Examination simply accorded the application a filing date of November 22, 2005.

The Office mailed a Notice to File Missing Parts on December 20, 2005. The Notice stated additional fees in the amount of $422 were required for the application. The new fee amounts were based on the fact the application had been accorded a filing date of November 22, 2005, rather than September 29, 2003. The Notice set an extendable two month time period for reply.

Petitioner filed the instant petition on April 7, 2006.

On April 28, 2006, the Office of Initial Examination withdrew the December 20, 2005 Notice. The record indicates the withdrawal may have been based on a belief the Notice had been sent to an incorrect address based on a request to change the address filed January 17, 2006. However, the Notice was mailed to the correct address of record on December 20, 2005. The Office mailed a new Notice to File Missing Parts to the new address on April 28, 2006.

Discussion:

After the loss of the application papers, the Office requested a copy of all the papers filed by applicant. Applicant did not supply a copy of all the papers. Instead, the papers filed by applicant on August 22, 2005, were incomplete. Therefore, the Office was correct in mailing a Notice informing applicant the papers were incomplete and that a filing date could not be accorded based only upon the papers filed August 22, 2005.

Unfortunately, the Notice of Incomplete Application failed to effectively communicate the nature of the problem. If the Notice had conveyed the exact nature of the problem to petitioner, petitioner could have filed a petition and a petition fee of $400 to correct the problem. The Office notes the $400 petition fee would not have been refundable.

A request for reconsideration should be filed in order to obtain a filing date of September 29, 2003.

The Office cannot process the application without ALL of the application papers. The fact the Office was responsible for losing the original papers does not alter the fact a copy of the papers is necessary for the examiner to consider the application.

Petitioner should submit a copy of ALL papers filed on September 29, 2003. The original application papers will consist of these papers and the application will be accorded a filing date of September 29, 2003. The request for reconsideration should include language identical to the language on the Notice Under 37 CFR 1.251 submitted by petitioner on August 22, 2005. A copy of the August 22, 2005 Notice is attached.

The papers filed on October 30, 2003, indicate petitioner wishes to amend the application. If petitioner continues to wish to amend the original papers, a *formal amendment* should be filed in compliance with 37 CFR 1.121.

The application is not abandoned.

37 CFR 1.251(b) states, "With regard to a pending application, failure to comply with [the Notice] within the time period set in the notice will result in abandonment of the application." However, the Notice mailed August 10, 2005, did not set forth a time period for reply. Therefore, the application is not abandoned as a result of a failure to file a "proper" reply to the Notice Under 37 CFR 1.251(b).

The Office mailed a Notice to File Missing Parts on December 20, 2005. The Notice set an extendable two month time period for reply. A reply could have been timely filed as late as July 20, 2006, with payment for a five month extension of time. On April 28, 2006, the Office of Initial Examination withdrew the December 20, 2005 Notice. Therefore, the application is not abandoned as a result of a failure to timely reply to the Notice to File Missing Parts mailed December 20, 2005.

The Office mailed a new Notice to File Missing Parts on April 28, 2006. Since the period for reply to the new Notice has not expired, the application is not abandoned as a result of a failure to reply to the new Notice to File Missing Parts.

The Notice to File Missing Parts mailed on December 20, 2005 has been withdrawn.

The petition under 37 CFR 1.181 to withdraw the Notice to File Missing Parts mailed on December 20, 2005, is dismissed as moot since the Office of Initial Examination withdrew the December 20, 2005 Notice on April 28, 2006.

The Notice to File Missing Parts mailed on April 28, 2006, is hereby withdrawn.

The Notice to File Missing Parts mailed on April 28, 2006, is based on a conclusion the application is not entitled to a filing date of September 29, 2003. The Office expects the application to be eventually accorded a filing date of September 29, 2003. Therefore, the Notice will be withdrawn at this time.

Petitioner may wish to submit a paper version of the information on the CD/DVD submitted on April 7, 2006.

If petitioner wishes for the information included on the CD/DVD to be considered, a paper copy of the information should be filed. As stated in the attached review of the CD/DVD, the subject matter on the CD/DVD is not matter one may submit by CD/DVD.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time

under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.53."

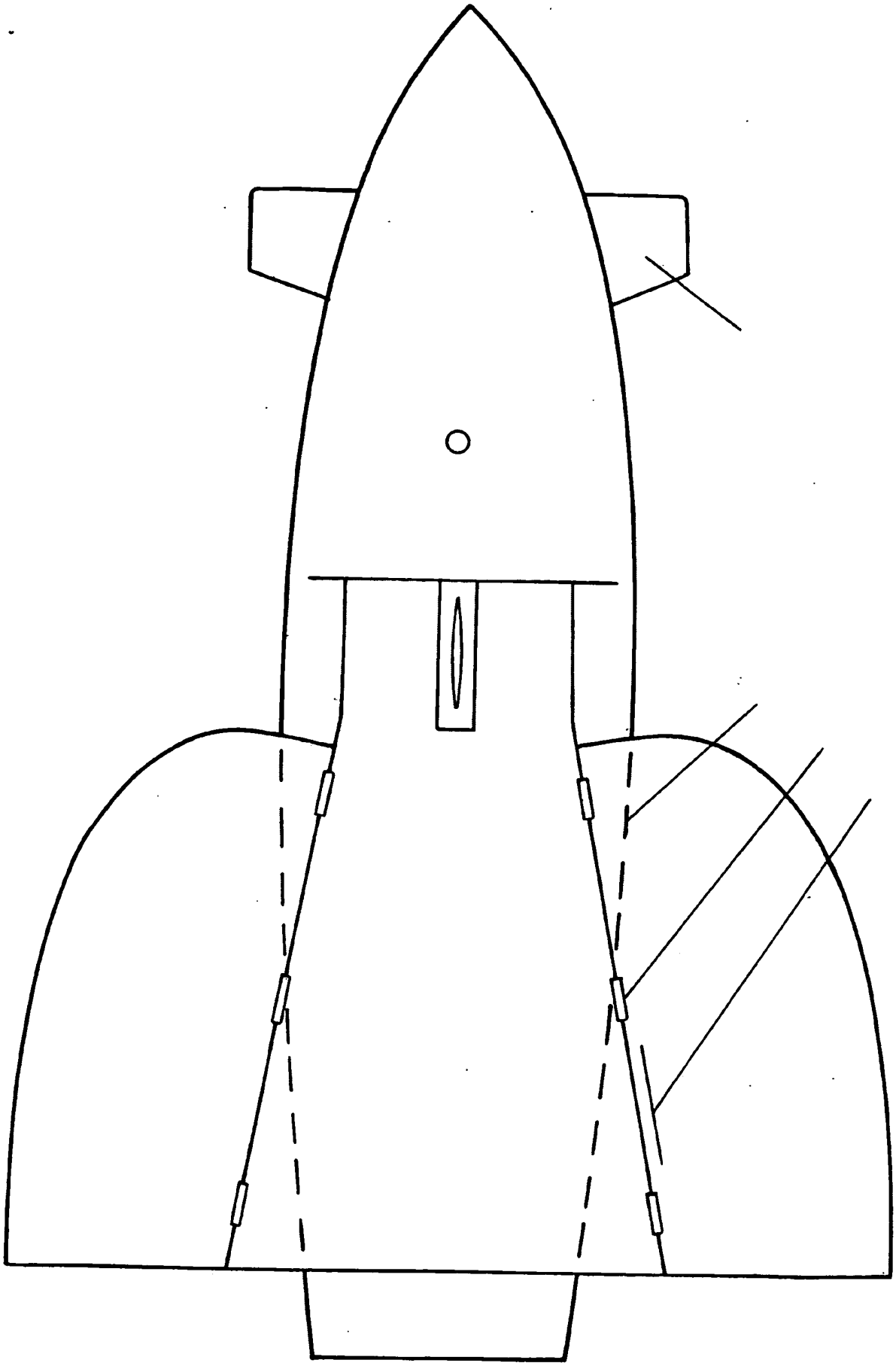
Further correspondence with respect to this matter should be addressed as follows:

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of last sheet of drawings filed on November 22, 2005
Copy of Notice Under 37 CFR 1.251 filed August 22, 2005
Copy of "CD Submission Review Results"



Approved for use through 07/31/2006.OMB 0651-0031
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

In re Application of: N/A

Application No.: 10/673866

Effective Date: 09/29/2003

Title: N/A

Direct to: U. S. Patent and Trademark Office
Mail Stop: Duplicates
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

NOTICE UNDER 37 CFR 1.251 – Pending Application

Statement (check the appropriate box):

☒ The copy submitted with this reply is a complete and accurate copy of applicant's record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and applicant is not aware of any correspondence between the Office and applicant for the above-identified application that is not among applicant's records.

☐ The copy of the paper(s) listed in the notice under 37 CFR 1.251 is/are a complete and accurate copy of applicant's record of such paper(s).

☐ The papers produced by applicant are applicant's complete record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and applicant is not aware of any correspondence between the Office and the applicant for the above-identified application that is not among applicant's records.

☐ Applicant does not possess any record of the correspondence between the Office and the applicant for the above identified application.

Aug. 17, 2005
Date

Edward Linsley
Signature

Edward Linsley
Typed or printed name

A Copy of this notice should be returned with the reply.

Burden Hour Statement: This collection of information is required by 37 CFR 1.251. The information is used by the public to reply to a request for copies of correspondence between the applicant and the USPTO in order to reconstruct an application file. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 60 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments 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, P.O. Box 1450, Alexandria, Virginia 22313-1450.
DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

CD Submission Review Results

Application Number	10/673866	Receipt Date	

	New Application		Response to Notice	Date of Response	04/07/06

☐ Jumbo – Large tables are included on the CD Page Count _____

☐ **There are no problems with the CDs in the submission.**

Items checked below are to be selected in the PALM Pre-Exam CD problem list.

Omitted Items

- ☐ Files on compact disc are unreadable:
- ☐ Disc(s) of either set not readable:
- ☐ Disc(s) do not contain file names listed:
- ☐ Amended CD missing unamended files:
- ☐ Missing compact discs:

Missing Parts

- ☐ Disc(s) do not contain file names listed:
- ☐ Discs contains files that are non-ASCII files:
- ☒ Only one copy of the CD, no duplicate:
- ☐ Wrong media type, e.g., CD-RW:
- ☒ The transmittal letter and specification do not list information:
- ☐ Both disc(s) contain unreadable files:
- ☐ One disc(s) contain unreadable files:
- ☐ Compact disc(s) contain viruses, but are still readable:
- ☐ EFS/Paper Submission:
- ☐ Table does not maintain data in proper alignment:
- ☒ Not proper subject matter for CD's:

Informality – If no problem, do not send notice, leave letter for Examiner

- ☐ No statement in transmittal letter that CD's are the same:
- ☐ No incorporation by reference statement for the CD's:
- ☐ CD's not labeled "Copy 1" and "Copy 2":
- ☐ Deficient CD packaging:
- ☒ Deficient Labeling on CD's:
- ☐ The transmittal letter does not list information:
- ☐ The specification does not list information:
- ☐ Table less than 51 pages submitted on CD:

File Directory Attachment

- ☐ Copy of file directory listing is attached and should be mailed to applicant
- ☐ Copy of file directory listing is not attached
- ☐ Copy of file directory listing is not attached because it is over one page long

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Edward L. Linsley
P.O. Box 238
Wetumpka, AL 36092

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DEC 22 2006
OFFICE OF PETITIONS

In re Application of Linsley :
Application No. 10/673,866 : Decisions on Petition
Filing Date: September 29, 2003 :
For: Twister Wings Sailboat :

This is a decision in response to the petition filed July 21, 2006, and supplemented September 25, 2006, and December 4, 2006. The petition requests the application be accorded a filing date of September 29, 2003.

The petition is **granted**.

The contents of the decision on petition mailed June 7, 2006, are hereby incorporated by reference.

Facts:

The application was filed September 29, 2003.

The original application papers were "scanned" into an electronic file wrapper.

On October 30, 2003, petitioner filed papers attempting to amend the application. A formal amendment was not filed. Instead, petitioner filed a "Request for Certificate of Correction"[1] and a paper entitled "Submission of Corrected Drawings." The papers mailed October 30, 2003, were properly scanned and indexed into the Image File Wrapper.

Prior to August 10, 2005,the USPTO discovered the original application papers were inaccessible because they had been incorrectly scanned and indexed. The USPTO was unable to locate the original physical application papers. The "loss" of the application papers was the result of Office error and not an error by applicant.

The Office cannot process the application without ALL of the application papers. The fact the Office was responsible for losing the original papers did not alter the fact the Office needed a copy of the papers.

[1] The Office notes that Certificates of Correction are only applicable to patents, not to patent applications.

In order to obtain a copy of all papers filed in the application, the Office mailed a "Notice Under 37 CFR 1.251 - Pending Application." The Notice stated, with emphasis added,

> The file on the cover sheet cannot be located after a reasonable search. Therefore, the Office is initiating the reconstruction of the file of the above-identified application.... Applicant is hereby requested to provide a copy of applicant's record (if any) of all the correspondence between the Office and applicant for the above-identified application [and] a list of such correspondence, and a statement the copy is a complete and accurate copy of applicant's record of all of the correspondence between the Office and the applicant.

Petitioner filed a reply on August 22, 2005. Petitioner stated the copy of the papers being submitted were a copy of all correspondence between the Office and applicant. However, the papers were *not* a copy of all past correspondence between the Office and applicant. The papers filed on August 22, 2005, consisted *only of* copies of papers filed on October 30, 2003.

Since petitioner's reply stated it included a copy of all the papers filed by petitioner or received by petitioner, the Office treated the papers filed on August 22, 2005, as if the papers were all the papers filed by petitioner for the application. The papers filed August 22, 2005, did not include any claims. The Office is statutorily barred from giving an application a filing date if a claim is not present. A "Notice of Incomplete Nonprovisional Application" was mailed October 28, 2005, stating the application did not contain any claims and a filing date would be accorded upon submission of one or more claims.

On November 22, 2005, petitioner filed a "Response to Notice of Nonprovisional Application, Dated 10/28/05," along with $400. The Office of Initial Patent Examination accorded the application a filing date of November 22, 2005. The Office of Initial Patent Examination did not forward petitioner's November 22, 2005 response to the Office of Petitions.

The Office mailed a Notice to File Missing Parts on December 20, 2005. The Notice stated additional fees in the amount of $422 were required for the application. The new fee amounts were based on the fact the application had been accorded a filing date of November 22, 2005, rather than September 29, 2003. The Notice set an extendable two-month time period for reply.

On April 28, 2006, the Office of Initial Examination withdrew the December 20, 2005 Notice. The record indicates the withdrawal may have been based on a belief the Notice had been sent to an incorrect address based on a request to change the address filed January 17, 2006. However, the Notice was mailed to the correct address of record on December 20, 2005. The Office mailed a new Notice to File Missing Parts to the new address on April 28, 2006.

Petitioner filed a letter on April 7, 2006. The letter was treated as a petition.

A decision was mailed June 7, 2006. The decision withdrew the holding of abandonment. The decision withdrew the Notice to File Missing Parts mailed April 28, 2006. The decision was unable to accord a filing date of September 29, 2003, because the file did not contain a copy of all the application papers filed on September 29, 2003. The decision stated,

> The Office cannot process the application without ALL of the application papers. The fact the Office was responsible for losing the original papers does not alter the fact a copy of the papers is necessary for the examiner to consider the application.
>
> Petitioner should submit a copy of ALL papers filed on September 29, 2003. The original application papers will consist of these papers and the application will be accorded a filing date of September 29, 2003. The request for reconsideration should include language identical to the language on the Notice Under 37 CFR 1.251 submitted by petitioner on August 22, 2005. A copy of the August 22, 2005 Notice is attached.

Petitioner has now supplied a copy of all the papers originally filed September 29, 2003, and the application will be accorded a filing date of September 29, 2003.

After this decision is mailed, the petition to make special will be forwarded to the appropriate party for a decision in due course.

Actions to be taken by the Office of Initial Patent Examination:

The application was originally filed September 29, 2003. The original papers have been lost/misplaced. Papers filed December 4, 2006, include copies of all papers filed September 29, 2003.

Please accord the application a filing date of September 29, 2003.

Please process the application using the copy of the originally filed papers submitted December 4, 2006.

The papers scanned under the code A.PE (Preliminary amendment) were filed after September 29, 2003, and should not be treated as part of the original application.

The Office of Initial Patent Examination is reminded the prior decision mailed June 7, 2006, withdrew the holding of abandonment.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : September 18, 2006

Patent No. :7,092,188
Inventor(s) : Kirk Pierce, Neal Bertram Schirle
Issued :August 15, 2006
Title :METHOD FOR ASSEMBLY LEVEL DISK ERASE
Docket No. :HSJ920030184US2

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.

Regarding the requested corrections to column 7 and 9; inspection of the application reveal these changes unwarranted. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provisions of 35 USC 254, CFR 1.322 of the Rules of Practice for Patent Cases.

In view of the foregoing, applicants request in these matters are hereby denied. Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

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

Bracewell & Giuliani, LLP
P.O. Box 61389
Houston, TX 77208-1389

CBN/arg

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BRACEWELL & GIULIANI LLP
PO BOX 61389
HOUSTON, TX 77208-1389

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FEB 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Price et al.	:	
Application No. 10/673871	:	DECISION
Filing or 371(c) Date: 09/29/2003	:	ON PETITION
Patent No.: 7092188	:	
Issue Date: 08/15/2006	:	
Attorney Docket No.	:	
HSJ920030184US2	:	

This is a decision on the correspondence entitled "Request for Certificate of Correction", filed October 10, 2006. The petition is properly treated under 37 CFR 3.81(b)[1]. The delay in treating this petition is regretted.

The Petition is **granted**.

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

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

Derek L. Woods
Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Docket Administrator - Room 3D-201E
Alcatel-Lucent USA Inc.
600-700 Mountain Avenue
Murray Hill, NJ 07974

Mail Date: 05/26/2010

Applicant	: Mohammad Hossein Zarrabizadeh	: DECISION ON REQUEST FOR
Patent Number	: 7630509	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/673,893	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1508** 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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Docket Administrator - Room 3D-201E
Alcatel-Lucent USA Inc.
600-700 Mountain Avenue
Murray Hill, NJ 07974

Mail Date: 08/04/2010

Applicant	: Mohammad Hossein Zarrabizadeh	: DECISION ON REQUEST FOR
Patent Number	: 7646881	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/673,894	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1525** 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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TASER INTERNATIONAL, INC.
17800 N. 85TH STREET
SCOTTSDALE, AZ 85255-9603

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MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of Smith :
Application No. 10/673,901 : Decision on Petition
Filing Date: September 28, 2003 :
Attorney Docket No. 101.00013 :

This is a decision in response to the "Petition for Correction of Filing Receipt Under 37 C.F.R. §1.182" filed on November 8, 2005.

The petition is **dismissed as moot**.

Facts:

The application was filed on September 28, 2003. The application claimed priority to applications 10/016,082 and 09/398,388. The first sentence of the specification used the term "continuation-in-part."

The filing receipt stated,

> This application is a CIP of 10/016,082 ... and is a CIP of 09/398,388

Petitioner states the instant application does not contain any new matter and should not have been called a CIP.

Petitioner requests a filing receipt indicating the instant application is a continuation application of application no. 10/016,082, which is a continuation of application no. 09/398,388.

Petitioner has filed an amendment to the specification correcting the priority claim language.

Analysis:

The addition or alteration of domestic priority claims is largely controlled by the provisions of 37 CFR 1.78.

The following question and answer were part of a set of questions and answers placed on the Office's website regarding 37 CFR 1.78.

Question: Applicant filed an application with a benefit claim to an earlier copending nonprovisional application. The benefit claim was filed within four months from the actual filing date of the application, but the relationship of the applications was designated as continuation." If applicant wants to change the relationship to

continuation-in-part," would a petition under 37 CFR 1.78(a)(3) and the surcharge set forth in 37 CFR 1.17(t) be required? (added 4Feb2005)

No, the petition under 37 CFR 1.78(a)(3) and the surcharge would not be required when applicant is changing the relationship in a benefit claim from "continuation" (or "divisional") to "continuation-in-part" or from "continuation-in-part" to "continuation" (or "divisional"), or from "continuation" to "divisional," because the Office was able to schedule the application for publication with the relationship given.

As indicated above, a petition under 37 CFR 1.78 (or 37 CFR 1.182) is unnecessary. The claim may simply be added by amendment.

As a courtesy, the Office attaches an updated filing receipt. The filing receipt should not be construed as an indicated the amendment has been entered. The examiner is the ultimate party who will decide the propriety of the amendment.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Updated Filing Receipt

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A.H.

UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/673,901	09/28/2003	3663	1325		3	19	3

CONFIRMATION NO. 1977
CORRECTED FILING RECEIPT
OC000000018145644
OC000000018145644

49754
TASER INTERNATIONAL, INC.
17800 N. 85TH STREET
SCOTTSDALE, AZ 85255-9603

Date Mailed: 02/27/2006

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)

Patrick W. Smith, Paradise Valley, AZ;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/016,082 12/12/2001 PAT 6,636,412
which is a CON of 09/398,388 09/17/1999

Foreign Applications

If Required, Foreign Filing License Granted: 01/06/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/673,901

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

Hand-held stun gun for incapacitating a human target

Preliminary Class

102

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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2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

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OFFICE OF PETITIONS

In re Patent No. 7,175,891	:	
Issue Date: February 13, 2007	:	
Application No. 10/673,909	:	DECISION ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. MERCK-2781	:	

This is a decision on the petition filed October 15, 2009, requesting under 37 CFR 1.182 for replacement of terminal disclaimer filed August 23, 2006 be withdrawn. The $400.00 petition fee has been received.

The petition is **DISMISSED**.

Petitioner asserts that the last three numbers for the copending application listed on the terminal disclaimer were mistakenly transposed with the last three numbers for the patent on the terminal disclaimer. However, the Office does not consider the error as a transposing of numbers and furthermore it was the responsibility of the petitioner to review the file prior to payment of the issue fee. The patent issued February 13, 2207.

Telephone inquiries related to this decision should be addressed to Michelle R. Eason at (571) – 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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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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APR 30 2004

OFFICE OF PETITIONS

In re Application of
Dally, et al.
Application No. 10/673,912
Filed: September 29, 2003
Attorney Docket No. 2390.1001-012
For: METHODS AND APPARATUS FOR EVENT-DRIVEN ROUTING

DECISION ON PETITION

This is a decision on the petition filed March 11, 2004 (certificate of mailing date March 8, 2004) requesting that Figures 12 and 13 be accorded a filing date of September 29, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was filed on September 29, 2003. On January 9, 2004, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) informing petitioners, *inter alia*, that Figures 12 and 13, as described in the specification, appeared to have been omitted.

Petitioners request that Figures 12 and 13 be accorded a filing date of September 29, 2003 on the basis that 10 sheets of drawing figures, including Figures 12 and 13, were received in the Patent and Trademark Office (PTO) on September 29, 2003. In support, the instant petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing September 29, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 10 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 10 sheets of drawing figures were filed on September 29, 2003. MPEP 503. A review of the application file reveals that there are only 9 sheets of drawing figures present.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**. Pursuant to petitioners' authorization, the $130.00 petition fee submitted on March 11, 2004 (certificate of mailing date March 8, 2004) will be credited to deposit account no. 08-0380.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **September 29, 2003**, using the copy of Figures 12 and 13 submitted with the instant petition. Office records will be corrected to show that 10 sheets of drawings were present on initial filing.

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

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY, 12TH FLOOR
NEW YORK, NY 10036

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JUN 2 5 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kevin Murphy, et al. :
Application No. 10/673,924 :
Filed: September 30, 2003 :
Attorney Docket No. P-6153-US :

This is a decision in response to the petition, filed February 12, 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 May 16, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 16, 2007. On February 12, 2008, the present petition was filed.

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

The application is being referred to Technology Center AU 2619 for appropriate action by the Examiner in the normal course of business on the amendment filed February 12, 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

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: Volkert A. Zeijlemaker	: DECISION ON REQUEST FOR
Patent Number	: 7623930	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/673,934	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **984** 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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BUCKLEY, MASCHOFF, TALWALKAR LLC
5 ELM STREET
NEW CANAAN, CT 06840

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of :
St. George et al. :
Application No. 10/673,936 : ON PETITION
Filed: September 29, 2003 :
Attorney Docket No. O01.005 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 2, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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 January 9, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 10, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (1). The declaration submitted with the instant petition appears to be the same declaration submitted previously upon filing of the application. Accordingly, it still does not comply with 37 CFR 1.63, as stated in the Notice mailed on January 9, 2004, in that it does not identify the residence (e.g., city or either state or foreign country of each inventor) and it does not identify the complete mailing or post office address of each inventor. A declaration, which complies with the above, should be submitted to revive the above-identified application.

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BUCKLEY, MASCHOFF, TALWALKAR LLC
5 ELM STREET
NEW CANAAN CT 06840

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OFFICE OF PETITIONS

In re Application of	:	
St. George et al.	:	
Application No. 10/673,936	:	ON PETITION
Filed: September 29, 2003	:	
Attorney Docket No. O01.005	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed August 22, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase

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

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Arthur M. Peslak, Esq.
MANDEL & PESLAK, LLC
80 SCENIC DRIVE
SUITE 5
FREEHOLD, NJ 07728

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OFFICE OF PETITIONS

In re Application of :
Roberk Babiak :
Application No. 10/673,984 :
Filed: September 30, 2003 : ON PETITION
Attorney Docket No.: Semet-001 :

This is a decision on the petition under 37 CFR 1.137(a), filed June 6, 2005, to revive the above-identified application. The petition is properly treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application became abandoned for failure to timely reply to the Notice of Non-Compliant Amendment ("Notice"), mailed October 8, 2004. The Notice set a one (1) month period for reply, and extensions of time were available under 37 CFR 1.136(a). No reply having been received, the above-identified application became abandoned November 9, 2004. A Notice of Abandonment was mailed on May 5, 2005.

Applicant's Assertion

Applicant asserts that a reply to the Notice was timely filed on November 1, 2004. In support of this assertion, Applicant provides copies of the Response to Notice of Non-Compliant Amendment, which includes a Certificate of Mailing dated November 11, 2004.

Under 37 CFR 1.8

> "[c]orrespondence required to be filed in the Patent and Trademark Office within a set period of time will be considered timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to the expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

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

The Office also notes that applicant avers non-receipt of the Notice and of the subsequently mailed Notice of Abandonment, despite the filing of a Power of Attorney.

A review of the file reveals that Applicant filed a declaration/power of attorney on July 28, 2004. Office records further reveal that the inventor filed a declaration with the application on September 30, 2003. The declaration/power of attorney filed on July 28, 2004, is apparently intended as a power of attorney and correspondence address change, as opposed to a substitute declaration/power of attorney.

Applicant is advised that 37 CFR 1.4(c) provides that

> [s]ince 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.

The power of attorney and correspondence address change has been entered and made of record.

No petition fee has been charged and none is due. A refund of the petition fee has been credited to deposit account 50-1237.

The application file is being referred to Technology Center Art Unit 3763 for processing of the Response to Notice of Non-Compliant Amendment, filed November 11, 2004 (using the copy re-filed with the instant petition) in due course.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Arthur M. Peslak, Esq.
MANDEL & PESLAK, LLC
80 SCENIC DRIVE
SUITE 5
FREEHOLD, NJ 07728

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JUL 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert Babiak	:	
Application No. 10/673,984	:	ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. Semet-001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 21, 2007, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3765 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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SUITE 3400
CHICAGO IL 60661

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AUG 2 6 2008

In re Application of :
Fuchs, et al. :
Patent No. 6,795,771 :
Issued: 21 September, 2004 :
Application No. 10/674,006 :
Filed: 29 September, 2003 :
Attorney Docket No. G002C5 :

NOTICE

This is in response to the paper filed 18 May, 2007, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

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.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities.

> **NOTE**: Petitioner is reminded that the regulations require that Petitioner file for each application/patent an accounting effective the actual date of loss of status, specifying the date(s), the amount(s) paid, amount(s) actually due, and the difference(s) due and payable. (*See*: the regulations at 37 C.F.R. §1.28,[1] and in particular at 37 C.F.R. §1.28(c)(2)(ii)—with the penalty provisions at 37 C.F.R. §1.28(c)(3).)

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[1] The regulations at 37 C.F.R. §1.28 provide:

§ 1.28 Refunds when small entity status is later established; how errors in small entity status are excused.

(a)*Refunds based on later establishment of small entity status.* A refund pursuant to § 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee.

(b)*Date of payment.*

(1)The three-month period for requesting a refund, pursuant to paragraph (a) of this section, starts on the date that a full fee has been paid;

(2)The date when a deficiency payment is paid in full determines the amount of deficiency that is due, pursuant to paragraph (c) of this section.

(c)*How errors in small entity status are excused.* If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, in any application or patent, and it is later discovered that such status as a small entity was established in error, or that through error the Office was not notified of a loss of entitlement to small entity status as required by § 1.27(g)(2), the error will be excused upon: compliance with the separate submission and itemization requirements of paragraphs (c)(1) and (c)(2) of this section, and the deficiency payment requirement of paragraph (c)(2) of this section:

(1)*Separate submission required for each application or patent.* Any paper submitted under this paragraph must be limited to the deficiency payment (all fees paid in error), required by paragraph (c)(2) of this section, for one application or one patent. Where more than one application

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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.

This file is being returned to IFW Files Repository.

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[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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or patent is involved, separate submissions of deficiency payments (*e.g.*, checks) and itemizations are required for each application or patent. See § 1.4(b).

(2)*Payment of deficiency owed.* The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(i)*Calculation of the deficiency owed.* The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity. Where a fee paid in error as a small entity was subject to a fee decrease between the time the fee was paid in error and the time the deficiency is paid in full, the deficiency owed is equal to the amount (previously) paid in error;

(ii)*Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A)Each particular type of fee that was erroneously paid as a small entity, (*e.g.*, basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;

(B)The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C)The deficiency owed amount (for each fee erroneously paid); and

(D)The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

(3)*Failure to comply with requirements.* If the requirements of paragraphs (c)(1) and (c)(2) of this section are not complied with, such failure will either: be treated as an authorization for the Office to process the deficiency payment and charge the processing fee set forth in § 1.17(i), or result in a requirement for compliance within a one-month non-extendable time period under § 1.136(a) to avoid the return of the fee deficiency paper, at the option of the Office.

(d)*Payment of deficiency operates as notification of loss of status.* Any deficiency payment (based on a previous erroneous payment of a small entity fee) submitted under paragraph (c) of this section will be treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

[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).

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

§1.2 Business to be transacted in writing.

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

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OFFICE OF PETITIONS

In re Application of
Jeffrey S. Swayze, et al.
Application No.: 10/674,026
Filed: September 29, 2003
Attorney Docket No.: END5132.0517374

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 19, 2007.

The application became abandoned for failure to pay the issue fee on or before May 29, 2007. A Notice of Abandonment was subsequently mailed on June 25, 2007. In response, on November 19, 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 the $1,440 issue fee and the $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

Accordingly, the petition is GRANTED.

It is noted that 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 referred to the Office of Data Management to be processed into a patent.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DEAN GARNER
ETHICON ENDO-SURGERY, INC.
4545 Creek ROAD
Cincinnati, OH 45242

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ARLINGTON, VA 22209-9889

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APR 1 5 2004

OFFICE OF PETITIONS

In re Application of :
Kobayashi, et al. :
Application No. 10/674,051 : DECISION GRANTING PETITION
Filed: September 30, 2003 :
Attorney Docket No. 500.38759VV2 :

This is a decision on the petition filed February 23, 2004, titled "Petition under 37 CFR 1.181". Petitioner is advised that the petition will be treated as request to vacate the Notice of Omitted Items mailed December 23, 2003, in the above-cited application.

The petition is **granted**.

On September 30, 2003, the above-identified application was filed. However, on December 23, 2003, the Office of Initial Patent Examination mailed a "Notice of omitted Items in Nonprovisional Application," stating that application had been accorded a filing date of September 30, 2003, and advising applicant that page 78 of the specification appeared to have been omitted. The notice also set a two month period for reply.

In response, on February 23, 2004, applicant filed the present petition and a $130.00 petition fee, a copy of page 78 of specification, and an Office date-stamped postcard receipt acknowledging receipt of 199 pages of the specification on September 30, 2003, among other items.

Upon review of the record, page 78 of the specification was not located among the application papers. However, the evidence is convincing that the application papers deposited September 30, 2003, included page 78, which was subsequently misplaced by the Office. Therefore, the application, including page 78 of the specification, was complete on filing and entitled to the presently accorded filing date of September 30, 2003.

Accordingly, the petition is granted; the language in the Notice relative to the omitted figures is vacated, accordingly.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of September 30, 2003, using the 199 pages of the specification filed on September 30, 2003.

The petition fee of $130.00 will be refunded, in due course.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON DC 20036-2680

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JUL 18 2007

OFFICE OF PETITIONS

In re Patent No. 7,108,213 :
Issued: September 19, 2006 :
Application No. 10/674,067 : ON PETITION
Filed: September 30, 2003 :
Attorney Docket Number: SN-US020279 :

This is a decision on the request for certificate of correction under 37 CFR 1.323, filed February 9, 2007, to correct the assignee's name on the front of the Patent, which is treated under 37 CFR 3.81(b)[1].

The petition is **GRANTED**.

Petitioner states that the name of the second assignee, FURUNO ELECTRIC COMPANY, LIMITED, was inadvertently not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee August 2, 2006. Accordingly, petitioner requests that a certificate of correction be issued to reflect the name of the second assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

---

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

Office assignment records reflect that FURUNO ELECTRIC COMPANY, LIMITED, is also an assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee and the fee for the certificate of correction have been properly applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of
Stephen Empedocles et al
Application No. 10/674,071
Filed: September 30, 2003
Attorney Docket No. 2132.0070002/DJF/TAD

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 26, 2005, which is being treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**..

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant

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

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

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2876 for appropriate action on the amendment submitted April 26, 2005, 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. 60/445,421.

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

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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
10/674,079	09/29/2003	2151	942	CIS03-39(7814)	7	26	4

CONFIRMATION NO. 2172

CORRECTED FILING RECEIPT

OC000000011790343

022468
CHAPIN & HUANG L.L.C.
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 120
WESTBOROUGH, MA 01581

Date Mailed: 01/29/2004

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

Applicant(s)

James N. Guichard, Groton, MA;
Robert Hanzl, Nashua, NH;

Domestic Priority data as claimed by applicant

Foreign Applications

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

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Methods and apparatus to support routing of information

Preliminary Class

709

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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BOSTON, MA 02110

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FEB 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Jianzhu Chen, et. al.	:	
Application No. 10/674,087	:	ON PETITION
Filed: September 29, 2003	:	
Attorney Docket No. 0492611-0507(MIT 10396)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on February 8, 2007, to revive the above-identified application.

The above application became abandoned for failure to file a proper reply to the final Office action mailed July 12, 2006.

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

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $395 filing fee; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $285 for a three (3) months extension of time. 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 $285 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited back to the credit card.

This application is being revived for consideration of the RCE filed on February 8, 2007.

The application file is being referred to Technology Center Art Unit 1635, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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Bausch & Lomb Incorporated
One Bausch & Lomb Place
Rochester, NY 14604-2701

Mail Date: 04/21/2010

Applicant	: Laurence J. Cull	: DECISION ON REQUEST FOR
Patent Number	: 7604607	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/674,094	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **879** 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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PETERS, VERNY, JONES & SCHMITT, L.L.P.
425 SHERMAN AVENUE, SUITE 230
PALO ALTO CA 94306

OCT 12 2005

In re Application of:
TALWAR *et al.*
Serial No.: 10/674,106
Filed: September 29, 2003
Attorney Docket No.: **3521.181**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed September 02, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from one of the co-inventors, David A. Markle, stating that the he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

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

Inquiries regarding this decision should be directed to Jose Dees at (571) 272-1569.

Jose Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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SCHEEF & STONE, L.L.P.
5956 SHERRY LANE
SUITE 1400
DALLAS, TX 75225

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SEP 2 1 2004

OFFICE OF PETITIONS

In re Application of
Farnsworth, et al.
Application No.: 10/674,109
Filed: September 29, 2003
Attorney Docket No: 555255012585

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed August 30, 2004.

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

On December 23, 2003, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two-month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). The Notice required an oath or declaration and $130.00 surcharge. A proper response was not received within the allowable period, and the application became abandoned on February 24, 2004.

The declaration filed August 30, 2004, is noted and made of record.

The Power of Attorney and Change of Correspondence Address form filed august 30, 2004, are noted and made of record.

This application 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) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: "Notice Regarding Change of Power of Attorney" --Copy

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RESEARCH IN MOTION, LTD
102 DECKER CT.
SUITE 180
IRVING, TX 75062

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SEP 0 6 2007

OFFICE OF PETITIONS

In re Application of Farnsworth et al. :
Application No. 10/674,109 : Decision on Petition
Filing Date: September 29, 2003 :
Attorney Docket No. 1578.622 :

This is a decision on the petition under 37 CFR 1.181, filed April 23, 2007, to withdraw the holding of abandonment. The petition is filed in the alternative under 37 CFR 1.137(b).

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

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

A Request for Continued Examination and an amendment were filed May 22, 2006.

A Notice of Non-Compliant Amendment was mailed May 23, 2006.

A Notice of Abandonment was mailed March 6, 2007. The Notice of Abandonment states the application is abandoned because a reply was never filed in response to the May 23, 2006 Notice of Non-Compliant Amendment.

Petitioner contends a timely reply was filed June 1, 2007.

The Office has located the reply filed June 1, 2007. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition under 37 CFR 1.181 has been granted, relief under 37 CFR 1.137(b) is unnecessary. The petition under 37 CFR 1.137(b) is dismissed as moot. A petition fee has not been charged to petitioner's deposit account.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a 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.

Technology Center Art Unit 2617 will be informed of the instant decision and the papers filed June 1, 2007, will be considered by the examiner in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Scheff & Stone, LLP
5956 Sherry Lane, Suite 1400
Dallas, TX 75225

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HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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OFFICE OF PETITIONS

In re Application of	:	
Peter J. Dronzek Jr.	:	
Application No. 10/674,116	:	NOTICE
Filed: September 29, 2003	:	
Attorney Docket No. 181-030B	:	

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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1733 for examination in due course.

Wan Laymon

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

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MAR 27 2007

OFFICE OF PETITIONS

In re Application of Dronzek :
Application No. 10/674,116 : DECISION ON PETITION
Filing Date: September 29, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 181-030B :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 26, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed 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.

The required fee for a petition under 37 CFR 1.78(a) is $1,370. Petitioner submitted $130. Therefore, an additional $1,240 has been charged to petitioner's deposit account.

The amendment lists the filing date for application no. 10/292,231, as November 11, 2002. However, office records indicate the filing date is November 12, 2002. An amendment to correct the filing date listed should be filed.

This application is being forwarded to Technology Center Art Unit 1733 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.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven Brantley
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
10/674,116	09/29/2003	1733	552	181-030B	23	3

CONFIRMATION NO. 2428

CORRECTED FILING RECEIPT

OC000000023084797

47888
HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

Date Mailed: 03/26/2007

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)

Peter J. Dronzek JR., Thornwood, NY;

Power of Attorney:

Edward Hedman--22120
James Costigan--25669
Kenneth Florek--33173
Alan Clement--34563
Martin Endres--35498

Timothy Gibson--40618

Domestic Priority data as claimed by applicant

This application is a DIV of 10/292,231 11/12/2002 *
which is a DIV of 09/480,300 01/10/2000 PAT 6,517,664
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

If Required, Foreign Filing License Granted: 12/23/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/674,116

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Techniques for labeling of plastic, glass or metal containers or surfaces with polymeric labels

Preliminary Class

156

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).

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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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PO BOX 140036
IRVING, TX 75014

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Robert A. Ridge
Application No. 10/674,128
Filed: September 29, 2003
Attorney Docket No. TTMI-25,598DV

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed October 12, 2004. The delay in responding is regretted; however, the petition was recently referred to the Office of Petitions for consideration.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before September 30, 2004. This decision precedes the mailing of a Notice of Abandonment. Receipt is acknowledged of the issue fee on October 12, 2004.

This application is being referred to Publishing Division for further processing.

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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VARNUM, RIDDERING, SCHMIDT & HOWLETT LLP
P.O. BOX 352
GRAND RAPIDS MI 49501

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AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of	:
Norman P. Lewis	:
Application No. 10/674,181	: DECISION REFUSING STATUS
Filed: 29 September, 2003	: UNDER 37 CFR 1.47(b)
Attorney Docket No. Performance	:
Stamping PLUS	:

This is in response to the petition filed on 19 July, 2004, under 37 CFR 1.47(b).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 29 September, 2003, without an executed oath or declaration.

Accordingly, on 18 December, 2003, Initial Patent Examination Division mailed a Notice To File Missing Parts of Nonprovisional Application requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 19 July, 2004,[1] the present petition was filed, accompanied by the petition fee, late filing surcharge, and a

[1]As 18 July, 2004, fell on Sunday, this petition was timely filed.

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five (5) month extension of time.

Petitioner asserts that the inventor has refused to sign the declaration.

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

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

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

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks items (1) and (5).

In regards to item (1), petitioners must supply proof that a copy of the application (specification including claims, drawings, if any, and the declaration) was sent or given to the non-signing inventor for review.[2] The affidavit of Kenneth R. Morency, President of Performance Stamping Company, Inc., does not appear to state that Mr. Morency has first-hand knowledge that a copy of the application papers (specification, claims, drawings, if any, and the declaration) was presented to the non-signing inventor. Petitioners should submit a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign can be alleged, petitioners must show that the application papers were sent or given to the non-signing inventor. If the inventor refuses to sign the declaration in writing after being sent or given the application, a copy of that written refusal should be supplied with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

In regards to item (5), petitioner must show proof of proprietary interest. Petitioner may make this showing by providing a copy

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[2] MPEP 409.03(d).

of any employment agreement between the non-signing inventor and the Rule 1.47(b) applicant (employer); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(b) applicant; or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would, by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant.

The legal memorandum provided by attorney Thomas L. Lockhart is not acceptable because Mr. Lockhart states that he is not registered to practice in Illinois, and does not state that he is familiar with the law of the jurisdiction (*i.e.*, Illinois). Additionally, attorney Lockhart's memorandum does not state that a court of competent jurisdiction would, by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant.

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 (703)308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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RUSELL J. EGAN
2328 WOODLAND PARKLAND DRIVE
HOUSTON TX 77077

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OFFICE OF PETITIONS

In re Application of :
Donald A. Stefan :
Application No. 10/674,200 : ON PETITION
Filed: September 29, 2003 :
Attorney Docket No. **STE-100** :

This is a decision on the petition filed December 8, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned October 23, 2006 for failure to timely pay the issue fee on or before October 20, 2006. Accordingly, a Notice of Abandonment was mailed November 29, 2006.

The issue fee, publication fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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Edward J. Timmer
Walnut Woods Centre
5955 W. Main Street
Kalamazoo MI 49009

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OFFICE OF PETITIONS

In re Application of :
Diez :
Application No. 10/674,202 : ON PETITION
Filed: September 29, 2003 :
Attorney Docket No. HOGC415 :
For: FUEL CELL UNIT, COMPOSITE BLOCK OF FUEL CELLS AND METHOD FOR MANUFACTURING A COMPOSITE BLOCK OF FUEL CELLS

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2007 (certificate of mailing date May 9, 2007), to revive the above-identified application.

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

As a preliminary matter, the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed June 21, 2006, which set a one month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on July 22, 2006. A Notice of Abandonment was mailed on May 10, 2007.

Applicant has submitted a proper reply to the June 21, 2006 Restriction Requirement in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the June 21, 2006 Restriction Requirement, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is **granted**.

After the mailing of this decision, the file will be returned to Technology Center AU 1745 for consideration of the election filed on May 14, 2007(certificate of mailing date May 9, 2007).

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: EDWARD J. TIMMER
P.O. BOX 770
RICHLAND MI 49083

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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

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OFFICE OF PETITIONS

In re Application of	:	
Dearnaley, et al.	:	
Application No. 10/674,203	:	ON PETITION
Filed: September 29, 2003	:	
Atty. Dkt. No.: SWRI-2834-03	:	

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

The petition is GRANTED.

The application became abandoned September 16, 2006 for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 15, 2006. The final Office action set a shortened statutory period for reply of three (3) months. No petition for extension of time under 37 CFR 1.136(a) was timely requested. Notice of Abandonment was mailed January 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied the reply in the form of a continuing application under 37 CFR 1.53(b); the required petition fee; and a proper statement of unintentional delay.

A terminal disclaimer was filed with the instant petition, however, as the instant application was filed after June 8, 1995, the terminal disclaimer does not appear to be necessary. Petitioners may request a refund of the terminal disclaimer fee by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/956,924.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/674,203	09/29/2003	Geoffrey Dearnaley	SWRI-2834-03

CONFIRMATION NO. 2668

POA ACCEPTANCE LETTER

32047
GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER, NH 03101

OC000000028771359

Date Mailed: 03/11/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/14/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/ambrown/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/674,203	09/29/2003	Geoffrey Dearnaley	SWRI-2834-03

CONFIRMATION NO. 2668

POWER OF ATTORNEY NOTICE

23770
PAULA D. MORRIS
THE MORRIS LAW FIRM, P.C.
PO BOX 420787
HOUSTON, TX 77242-0787

OC000000028771324

Date Mailed: 03/11/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/14/2007.

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

/ambrown/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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NOV 09 2005

TECHNOLOGY CENTER 3600

LAURA C. HARGITT
General Motors Corporation
Legal Staff, Mail Code 482-C23-B21
P.O. Box 300
Detroit, MI 48265-3000

In re Application of
JOSEPH P. FANNON et al.
Application No. 10/674,210
Filed: September 29, 2003

DECISION ON PETITION TO WITHDRAW ABANDONMENT

For: CABLE END FITTING RETAINER ASSEMBLY

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 September 1, 2005.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Office action mailed January 26, 2005, which set a one month shortened statutory period. No response was received and a Notice of Abandonment was sent on August 22, 2005.

Petitioner contends that a response was filed on February 3, 2005. In support thereof, petitioner submits, a copy of a response bearing a Certificate of Transmission signed by Vicki L. Gilbert and dated February 3, 2005.

Petitioner's evidence of a timely filing based on a Certificate of Transmission is considered to be insufficient. In this regard, any petition to withdraw the holding of abandonment based upon a Certificate of Transmission must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission 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 Transmission (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 Vicki L. Gilbert. The statement made by Laura C. Hargitt attesting to the timely filing has been noted, however, absent any extenuating circumstances, this statement must be made by the person who signed the certificate.

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."

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

KJD/bkg: 10/21/2005

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Paper No. None

LAURA C. HARGITT
General Motors Corporation
Legal Staff, Mail Code 482-C23-B21
P.O. Box 300
Detroit MI 48265-3000

COPY MAILED
DEC 21 2005
OFFICE OF PETITIONS

In re Application of	:	
Joseph Patrick Fannon et al.	:	
Application No. 10/674,210	:	
Filed: September 29, 2003	:	DECISION ON PETITION
Attorney Docket No. GP-303156	:	UNDER 37 C.F.R. §1.181(A)
Title: CABLE END FITTING RETAINER	:	
ASSEMBLY	:	

This is a decision on the renewed petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on December 9, 2005.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed January 26, 2005, which set a shortened statutory period to reply for one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were received. Accordingly, the above-identified application became abandoned on February 27, 2005. A Notice of Abandonment was mailed on August 22, 2005.

The original petition was submitted on September 1, 2005, and was dismissed via the mailing of a decision on November 9, 2005.

With the original petition, Petitioner included a response to the restriction requirement which contains a certificate of facsimile transmission which bears a date of February 3, 2005. With this renewed petition, Petitioner has included a statement under 37 C.F.R. §1.8(b)(3) which attests on a personal knowledge basis to the previous timely facsimile transmission.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met her burden of establishing that a timely response was timely submitted, pursuant to 37 C.F.R. §1.8.

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

Technology Center 3600 will be notified of this decision.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

LAURA C. HARGITT
General Motors Corporation
Legal Staff, Mail Code 482-C23-B21
P.O. Box 300
Detroit MI 48265-3000

COPY MAILED
MAR 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Joseph Patrick Fannon et al.	:	
Application No. 10/674,210	:	CORRECTED DECISION
Filed: September 29, 2003	:	ON RENEWED PETITION
Attorney Docket No. GP-303156	:	UNDER 37 C.F.R. §1.181(A)
Title: CABLE END FITTING RETAINER	:	
ASSEMBLY	:	

This is a corrected decision on the renewed petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on December 9, 2005.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed January 26, 2005, which set a shortened statutory period to reply for one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were received. Accordingly, the above-identified application became abandoned on February 27, 2005. A Notice of Abandonment was mailed on August 22, 2005.

The original petition was submitted on September 1, 2005, and was dismissed via the mailing of a decision on November 9, 2005.

With the original petition, Petitioner included a response to the restriction requirement which contains a certificate of facsimile transmission which bears a date of February 3, 2005. With the renewed petition, Petitioner included a statement under 37 C.F.R. §1.8(b)(3) which attests on a personal knowledge basis to the previous timely facsimile transmission.

On December 21, 2005, a decision was mailed which incorrectly granted this petition, indicating "it is concluded that Petitioner has met her burden of establishing that a timely response was timely submitted, pursuant to 37 C.F.R. §1.8[1]."

1 Decision on petition, page 1.

The Office regrets this error.

It has since been noted that the response of February 3, 2005 does not pertain to the present application. The application number, inventor, title, filing date, attorney docket number, group art unit, and Examiner each differs from that of the present application.

As such, even if the text of the response were to be applicable to the present application, there would have been no reason for the Office to associate this submission with the present application.

It follows that the decision of December 21, 2005 is hereby **VACATED**. The renewed petition is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "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.

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b).

Any subsequent submission should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

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 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

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

Paper No. None

LAURA C. HARGITT
General Motors Corporation
Legal Staff, Mail Code 482-C23-B21
P.O. Box 300
Detroit MI 48265-3000

COPY MAILED
MAY 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Joseph Patrick Fannon et al.	:	
Application No. 10/674,210	:	DECISION ON PETITION
Filed: September 29, 2003	:	UNDER 37 C.F.R. §1.137(B)
Attorney Docket No. GP-303156	:	
Title: CABLE END FITTING RETAINER	:	
ASSEMBLY	:	

This is a decision on the petition under 37 CFR §1.137(b)[1], filed April 4, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed January 26, 2005, which set a shortened statutory period to reply for one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were received. Accordingly, the above-identified application became abandoned on February 27, 2005. A Notice of Abandonment was mailed on August 22, 2005.

With the petition, Petitioner has submitted the petition fee, a response to the Restriction Requirement, and the proper statement of unintentional delay. A terminal disclaimer is not required. Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b).

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

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 Technology Center will be made aware of this decision.

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

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

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

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MAR 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Cantagallo :
Application No. 10/674,217 :
Filed: September 30, 2003 :
Attorney Docket No. 9400-54 :

ON PETITION

This is a decision on the petition filed January 22, 2004, to accord the above-identified application a filing date of September 29, 2003, instead of September 30, 2003.

The petition is **granted**.

Petitioner alleges the application was mailed by Express Mail on September 29, 2003. In support, petitioner has supplied a copy of the Express Mail label. The label does not include a date-in and the stamp is illegible. Petitioner has also submitted a printout from the USPS web site which indicates the package was received by the USPS at 5:27pm on September 29, 2003.

37 CFR 1.10(d) states:

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

All of the above requirements have been met. Therefore, the application will be accorded a filing date of September 29, 2003.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of September 29, 2003.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OCT 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Nasir Shahrestani et al	:	
Application No. 10/674,244	:	DECISION GRANTING PETITION
Filed: September 29, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. END-5034	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 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 RCE and a previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejectioh of July 7, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3736.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JAN 12 2006

TECHNOLOGY CENTER 3600

DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

In re Application of :
Donald E. Weder :
Application No. 10/674,247 :
Filed: September 26, 2003 :
For: WRAPPER FOR FLORAL GROUPING FORMED OF CLOTH AND POLYMERIC FILM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on July 14, 2005.

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

☒ Postcard receipt being dated by the OIPE on May 26, 2005.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

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

RAR/rjc/9/23/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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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. 7,158,080	:	
Issue Date: January 2, 2007	:	
Application No. 10/674,267	:	NOTICE
Filed: September 29, 2003	:	
Attorney Docket No. 18952US02	:	

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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United States Patent and Trademark Office
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HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

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AUG 31 2009

OFFICE OF PETITIONS

In re Application of :
De Voir, et al. :
Application No. 10/674,270 : ON APPLICATION FOR
Filed: September 29, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 117163.00092 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed June 19, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is five hundred sixty-four (564) days, not three hundred fifty-five (355) 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 in this instance 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 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).

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.

---

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of
David A. Dalessandro et al.
Application No. 10/674,303
Filed: September 30, 2003
Attorney Docket No: ETH5093

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed March 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

A non-Final Office Action was mailed June 6, 2006 setting a three month shortened statutory period for reply. No response or request for an extension of time having been filed in this application prior to the expiration of the time set for reply, this application became abandoned September 7, 2006. Accordingly, a Notice of Abandonment was mailed January 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application under 37 CFR 1.53(b); (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

---

[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)).

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation in part application no.11/633,291 filed December 4, 2006, pursuant to the provisions of 37 CFR 1.53(b).

The petition fee in the amount of $1620 has been charged to deposit account no. 10-0750

This matter is being referred to Technology Center 3721 for processing of the continuation application filed December 4, 2006.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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AUG 06 2007

OFFICE OF PETITIONS

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

In re Application of	:	
Stanley W. Tehee, Jr.	:	
Application No. 10/674,315	:	DECISION GRANTING PETITION
Filed: September 29, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 6097P035	:	

This is a decision on the petition, filed March 5, 2007, 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 29, 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 accompanies this decision on petition.

The Request for Continued Examination and Information Disclosure Statement filed March 5, 2007, are noted.

This application is being forwarded to Technology Center Art Unit 2132 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 Petition

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.
10/674,315	09/29/2003	Stanley W. Tehee JR.	6097P035

CONFIRMATION NO. 4665

8791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Date Mailed: 08/03/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/15/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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COMMISSIONER FOR PATENTS
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AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland CO 80537-0599

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Liu, et al. : DECISION ON PETITION
Application No. 10/674,323 :
Filed: September 30, 2003 :
Dkt. No.: 10030761-1 :

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed April 10, 2007.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned October 25, 2006 for failure to timely submit a proper reply to the non-final Office action mailed July 24, 2006. The non-final Office action set a two month statutory period of time for reply. Notice of Abandonment was mailed February 23, 2007.

Petitioners allege non-receipt of the non-final Office action mailed July 24, 2006.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received.

The showing required to establish non-receipt of an Office communication must include a statement that the Office

communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in the statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

Petitioners have failed to attest to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. Moreover, petitioners have failed to reference and provide docketing records where the non-received Office communication would have been entered had it been received. While the petition is accompanied by a "mail log," the declaration included the petition indicates that the record keeping procedures in place include a docketing system. It is unclear from the record if the docketing system in is a system separate and apart from the mail log. Further elaboration, and, if necessary, supporting documentation is required upon renewed petition.

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

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

By facsimile: (571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland CO 80537-0599

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Liu, et al.	:	DECISION ON PETITION
Application No. 10/674,323	:	
Filed: September 30, 2003	:	
Dkt. No.: 10030761-1	:	

This decision is in response to the renewed petition under 37 CFR 1.181, filed August 1, 2007, to withdraw the holding of abandonment under 37 CFR 1.181.

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

This application was held abandoned October 25, 2006 for failure to timely submit a proper reply to the non-final Office action mailed July 24, 2006. The non-final Office action set a two month statutory period of time for reply. Notice of Abandonment was mailed February 23, 2007.

Petitioners allege non-receipt of the non-final Office action mailed July 24, 2006 and have provided documentation in support thereof.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received.

The showing required to establish non-receipt of an Office communication must include a statement that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in the statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are

circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

The arguments and supporting documentation presented have been carefully considered and support the conclusion that the non-final Office was not received.

In view thereof the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2100 for re-mailing of the Office communication. The time period for reply will be set in the re-mailed Office communication.

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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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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OFFICE OF PETITIONS

In re Application of	:	
Mark B. Knudson, et al.	:	
Application No. 10/674,330	:	DECISION ON PETITION
Filed: September 29, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 14283.1USI1	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 3, 2007, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes a statement from applicant Timothy R. Conrad's doctor. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3766 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON TX 77057-2631

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OFFICE OF PETITIONS

In re Application of :
Michael Y. **Lai** :
Application No. 10/674,364 : DECISION ON PETITION
Filed: September 29, 2003 :
Attorney Docket No. :
ITL.1482US (P16116)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the final office action mailed May 02, 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, the above-identified application became abandoned on August 03, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,540.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the final office action is accepted as having been intentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050.00 extension of time fee submitted with the petition on November 26, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

David A. Bucci
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of	:
Ishikawa et al.	:
Application No. 10/674,380	:
Filing or 371(c) Date: 10/01/2003	:
Patent No.: 7,029,194	:
Issue Date: 04/18/2006	:
Attorney Docket No.	:
AKY-0012	:

This is a decision on the "Request to Correct Name of Assignee", filed August 21, 2006, requesting a change in the name of the assignee after payment of the issue fee. The request is properly treated as a petition under 37 CFR 3.81. The delay in treating this petition is regretted.

The Petition is **granted**.

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

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

Derek L. Woods
Attorney
Office of Petitions

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TOWNSEND & BANTA
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MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
Hirotoshi ADACHI et al. :
Application No. 10/674,419 :
Filed: October 01, 2003 :
Attorney Docket No. **MUR-022-USA-P** :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 03, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 13, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one (1) 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 November 14, 2005.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 571-272-2783.

This application is being referred to Technology Center AU 1615 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

PILLSBURY WINTHROP SHAW PITTMAN
P.O. BOX 10500
MCLEAN VA 22102

In re Application of	:	
Manabu Akamatsu	:	
Application No. 10/674,424	:	ON PETITION
Filed: October 1, 2003	:	
Attorney Docket No. 008312-0306166	:	

This is a decision on the petition, filed January 26, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 28, 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 2133 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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United States Patent and Trademark Office
P.O. Box 1450
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LEYDIG VOIT & MAYER
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON, DC 20005-3960

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of	:	
John David Lilley	:	
Application No. 10/674,427	:	DECISION ON PETITION
Filed: October 1, 2003	:	TO WITHDRAW
Attorney Docket No. 503028/Van Malderen	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 27, 2005.

The request is **NOT APPROVED**.

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

The request cannot be approved because it is unclear as to who the attoreny signing the request has authority over. The request was signed by Jeremy M. Jay, a partner at Leydig Voit & Mayer, Ltd. (customer No. 23548) and an attorney of record in the instant application, who states that he is vested with full rights and authority to represent all other patent attorneys or agents of record (customer No. 23458). It is unclear from the record, who the attorney has authority over, i.e., is it the attorneys of Leydig Voit & Mayer, Ltd. who are of record or is it the attorneys of General Electric Company who are not of record. A clear statement indicating exactly whom the signing attorney is signing on behalf of is required. Note that it appears as though the request provided an incorrect customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by a registered practitioner given power of attorney in this application, an assignee, or the applicant. See 37 CFR 1.33(a)(2).

This application is being referred to Technology Center AU 1742 to await a reply to the non-final Office mailed april 17, 2006.

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

Denise Pothier
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

LeyDig Voit & Mayer, LTD
700 13th Street, NW
Suite 300
Washington DC 20005-3960

In re Application of	:	
John David Lilley	:	
Application No. 10/674,427	:	DECISION ON PETITION
Filed: October 1, 2003	:	TO WITHDRAW
Attorney Docket No. P68217US1	:	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 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 Jeremy M. Jay on behalf of all attorneys of record who are associated with Customer No. 23548.

All attorneys/agents associated with the Customer No. 23548 have been withdrawn.

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

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

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **David John Lilley**
29 Lexington Road
Milbury, MA 01527

cc: **Fitch Even Tabin & Flannery**
120 South LaSalle Street
Suite 600
Chicago, IL 60603-3406

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OFFICE OF PETITIONS

DAVID TOREN, ESQ.
ABELMAN FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK NY 10017-5621

In re Application of
Alessandri, et al.
Application No. 10/674,447
Filed: 29 September, 2003
Attorney Docket No. DT-6644

DECISION

This is a decision on the petition filed on 9 October, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 12 March, 2007, with reply due absent extension of time on or before 12 June, 2007;
- the application went abandoned after midnight 12 June, 2007;
- the Office mailed the Notice of Abandonment on 21 September, 2007;
- on 9 October, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that a reply in the form of an amendment was filed with a request and fee for extension of time (which was charged) on 6 September, 2007, over a 6 September, 2007, certificate of (express) mail, and Petitioner made such showings with copies of documents (including the reply and the date-stamped ("SEP 06 2007") receipt card (see: MPEP '503[1]) and of

[1] MPEP '503 provides in pertinent part:
'503 Application Number and Filing Receipt

the reply and made such statements of Petitioner's own knowledge as set forth in the guidance in the Commentary at MEEP §711.03(c).

The record now reflects that filing.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

---

* * *

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

* * *

RETURN POSTCARD

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

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

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

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

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —
(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.
(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

The commentary at MPEP §711.03(c) provides in pertinent part:

* * *

> **B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed**
>
> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the 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

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4 See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

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

6 See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

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

8 See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent

Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirements herein.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted** and the 21 September, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 3700 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[9] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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SOFER & HAROUN, LLP
317 MADISON AVENUE, SUITE 910
NEW YORK, NY 10017

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OFFICE OF PETITIONS

In re Application of :
Mikio Kuwahara et al :
Application No. 10/674,455 : ON PETITION
Filed: September 29, 2003 :
Attorney Docket No. 773-010C :

This is a decision on the petition, filed July 2, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add an assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignees.

The request is **DISMISSED**.

Petitioner respectfully request that the assignees' names are Hitachi, Ltd., Tokyo, Japan; and KDDI, Corp., Tokyo, Japan be added the Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

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

A review of Office database assignment records reflects that an assignment to Hitachi, Ltd., Tokyo, Japan; and KDDI, Corp., Tokyo, Japan has been recorded. Therefore, upon submission of the required certificate of correction, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Hitachi, Ltd., Tokyo, Japan; and KDDI, Corp., Tokyo, Japan were the assignees of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction which sets forth Hitachi, Ltd., Tokyo, Japan; and KDDI, Corp., Tokyo, Japan, as the assignees**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

The Certificate of Correction fee of $100 was received on July 2, 2007.

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignees set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignees data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Irvin Dingle
Petition Examiner
Office of Petitions

OA rec'd: → 12/17/06

2018-784
RYM

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NIXON & VANDERHYE PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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SEP 18 2006
OFFICE OF PETITIONS

In re Application of
Yasuhiro Nakai et al
Application No. 10/674,472
Filed: October 1, 2003
Attorney Docket No. 2018-784

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed September 15, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 28, 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 2837 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Sept9\674472.wpd

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

FAX RECEIVED
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Nixon & Vanderhye P.C.

ATTORNEYS AT LAW

11TH FLOOR
901 NORTH GLEBE ROAD
ARLINGTON, VIRGINIA 22203

TELEPHONE: (703) 816-4000
FACSIMILE: (703) 816-4100
WRITER'S DIRECT DIAL NUMBER:
(703) 816-4044

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FACSIMILE COVER SHEET

PLEASE DELIVER IMMEDIATELY!!!!

Our Ref.: 2018-784
Serial No.: 10/674,472 Date: November 15, 2006

To: Frances Hicks
Firm: United States Patent and Trademark Office
Facsimile No.: (571) 273-0025
From: Raymond Y. Mah

Number of Pages (including cover sheet): 2

(IF YOU DO NOT RECEIVE ALL OF THE PAGES OR ENCOUNTER DIFFICULTIES IN TRANSMISSION, PLEASE CONTACT US IMMEDIATELY AT (703-816-4000).

Sarah Lanning
FACSIMILE OPERATOR

ATTACHMENT/S: Decision Granting Petition

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MESSAGE:

Per your request attached is a copy of the Decision Granting Petition Under 37 CFR 1.313(c)(2)

CONFIDENTIALITY NOTE

The documents accompanying this facsimile transmission contain information belonging to Nixon & Vanderhye, which is confidential and/or legally privileged. This information is only intended for the use of the individual or entity named above. **IF YOU ARE NOT THE NAMED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR TAKING OF THIS INFORMATION FOR ANY USE WHATSOEVER IS STRICTLY PROHIBITED.** If you have received this facsimile in error, please immediately contact us by telephone to arrange for return of the original documents to us.

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AUG 17 2007

TECHNOLOGY CENTER 2100

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

In re Application of: KWON, Young-sig
Application No. 10/674,477
Filed: October 1, 2003
For: RECORDING METHOD AND
RECORDING APPARATUS USING SAME

DECISION ON PETITION

This is a decision on the petition filed on May 25, 2007, under 37 CFR 1.181(a) to invoke Supervisory Authority with respect to the Office action mailed on April 18, 2007, and withdraw the finality of the office action.

The Petition is **DISMISSED as MOOT.**

RECENT PROSECUTION HISTORY

January 17, 2007	Final Rejection mailed.
March 14, 2007	Applicant filed response to final rejection above
April 18, 2007	A second final rejection mailed.
May 25, 2007	Instant petition requesting withdrawing finality of 4/18/2007 action
August 8, 2007	Non-Final Rejection mailed

Petitioner filed the instant petition on May 25,2007, requesting that the finality of the office action mailed on 4/18/2007 be withdrawn, since

- A rejection of claims 1, 2, 8, 9, and 21 under 35 U.S.C. 102 was made for the first time, thus constituting a new grounds of rejection in a final office action.

In the new non-final office action mailed on August 8, 2007, examiner indicates the withdrawal of finality of the office action mailed on 1/17/2007 (refer page 2 of non-final action mailed on

August 8, 2007). Per the examiner, the final office action mailed on 4/18/2007 was a reissue of the final office action mailed on 1/17/2007 (refer page 2 of final office action mailed on 4/18/2007). Hence by issuing a new non-final office action on August 8, 2007, and indicating that the finality of office action mailed on 1/17/2007 is withdrawn, examiner has also effectively withdrawn the finality of the office action mailed on 4/18/2007.

Accordingly, in view of the above stated reason, the instant petition, filed under 37 CFR §1.181 to withdraw the finality of the April 18, 2007 Office action in this application, is rendered moot.

Accordingly, the Petition is **DISMISSED as moot**.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Jack Harvey, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

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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
10/674,492	09/29/2003	2871	1102	5095-4068	5	23	5

CONFIRMATION NO. 4676

CORRECTED FILING RECEIPT

OC000000016147763

27123
MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

Date Mailed: 05/27/2005

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)

Yoshifumi Kato, Kariya-shi, JAPAN;

Power of Attorney:

Harold Haidt–17509
Alfred Haffner Jr–18919
John Vassil–19098
John Diaz–19550
David Pfeffer–19825
Alfred Ewert–19887
Robert Paulson–21046
Harry Marcus–22390
Stephen Smith–22615
Kurt Richter–24052

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-287026 09/30/2002
JAPAN 2002-287025 09/30/2002

If Required, Foreign Filing License Granted: 12/20/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/674,492

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

BEST AVAILABLE COPY

Title

Light-emitting device, display unit and lighting unit

Preliminary Class

349

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

GRANTED

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

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

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

NOT GRANTED

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

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Paper No.

Beirne, Maynard & Parsons, L.L.P.
Suite 2500
1300 Post Oak Blvd.
Houston, TX 77056-3000

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In re Application of :
Arvel Lee Clark :
Application No. 10/674,514 :
Filed: September 29, 2003 : ON PETITION
Attorney Docket Number: :
004105/030862 :

This is a decision in response to the Petition under 37 CFR 1.137(b), filed May 15, 2004, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), mailed December 24, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on February 25, 2004. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition Petitioner has filed the necessary documents and paid the requisite fees.

The Oath/declaration has been entered and made of record.

This application is being forwarded to the Office of Initial Patent Examination for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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1300 Post Oak Blvd.
Houston, TX 77056-3000

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OFFICE OF PETITIONS

In re Application of :
Arvel L. Clark :
Application No. 10/674,514 :
Filed: September 29, 2003 :
Attorney Docket Number: 004105/030862 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed November 18, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed November 4, 2004. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned February 5, 2005. A Notice of Abandonment was mailed on April 18, 2005.

With the instant petition, Applicant has submitted corrected drawings.

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

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APR 17 2006
OFFICE OF PETITIONS

In re Application of :
Cheyer et al. :
Application No. 10/674,514 :
Filed: March 17, 1999 :
Attorney Docket Number: SRI1P018 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed February 10, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed December 6, 2004. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned March 7, 2005. A Notice of Abandonment was mailed on February 2, 2006.

With the instant petition, Applicant has submitted corrected drawings.

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

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

Derek L. Woods
Attorney
Office of Petitions

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Chris Foo
P.O. Box 28151
Santa Ana,CA 92799

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MAY 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Chris Foo :
Application No.10/674,546 : DECISION ON PETITION
Filed: October 1, 2003 :
Attorney Docket No. :

This is a decision on the petition filed March 16, 2003, requesting that the above-identified application retain the presently accorded a filing date of October 1, 2003, with pages 8 through 11 of the specification as part of the original disclosure.

The petition is **dismissed as moot.**

On October 1, 2003, the above-identified application was filed. On March 5, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Items of Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of October 1, 2003, however, pages 8 through 11 of the specification appeared to have been omitted. Relative to the omitted item, the Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on March 16, 2004, applicants filed the present petition and other evidentiary documents. A review of the record revealed that a notice titled, "Withdrawal of Previously Sent Notice" was mailed on April 1, 2004, withdrawing the "Notice of Omitted Items of Nonprovisional Application" mailed March 5, 2004. As the notice of March 5, 2004, has been withdrawn, there is no remedy that can be provided by the instant petition; the petition is, therefore, dismissed as moot.

The petition fee of $130.00 will be refunded, in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of October 1, 2003.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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NOV 27 2007

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

In re Application of:	:
Tsutsui et al.	: PETITION DECISION
Serial No.: 10/674,581	:
Filed: September 29, 2003	:
Attorney Docket No.: 019941-001810US	

This is in response to the petition under 37 CFR § 1.181, filed November 9, 2007, requesting withdrawal of finality of the Office action of October 5, 2007.

BACKGROUND

More recently, the examiner mailed a final Office action on May 29, 2007 setting a three month shortened statutory period for reply. In this Office action, the examiner rejected claims 1-4, 7-10, 13-16 and 19 under 35 USC § 103(a) as being obvious over Staats et al. (WO 00/20028) in view of Takasu (Kurume Med J., 2001, Vol. 48, pp. 171-174) and rejected claims 1-4, 7-10, 13-16 and 19 under 35 USC § 103(a) as being obvious over Foster (US 6,436,391) in view of Tovey (US 6,361,769). The examiner additionally maintained the withdrawal of claims 21-27 from consideration on the merits for being directed toward a non-elected invention.

In response to the final Office action of May 29, 2007, applicants filed an RCE on August 29, 2007 which included an amendment to the claims and remarks. Applicants cancelled claims 5-6, 8, 10, 14 and 16 and added new claims 31-39. Applicants amended claims 7, 13 and 19 to newly recite 'a natural' interferon α and to insert the language 'wherein said vaccine antigen comprises a protein or peptide antigen' (or 'and wherein said vaccine antigen comprises a protein or peptide antigen' in the case of claim 19). These limitations added by the amendment were already considered and examined prior to the filing of the RCE, as these limitations were previously present in claims 5-6, 8, 10, 14 and 16.

The examiner mailed a final Office action on October 5, 2007 setting a three month shortened statutory period for reply. In this Office action, the examiner maintained the rejection of claims 7, 9, 13, 15 and 19 under 35 USC § 103(a) as being obvious over Staats et al. (WO 00/20028) in view of Takasu (Kurume Med J., 2001, Vol. 48, pp. 171-174) and additionally rejected new claims 31-39 under 35 USC § 103(a) as being obvious over Staats et al. (WO 00/20028) in view

of Takasu (Kurume Med J., 2001, Vol. 48, pp. 171-174). The examiner maintained the rejection of claims 7, 9, 13 and 19 under 35 USC § 103(a) as being obvious over Foster (US 6,436,391) in view of Tovey (US 6,361,769) and additionally rejected new claims 31-39 as being obvious over Foster (US 6,436,391) in view of Tovey (US 6,361,769). The examiner maintained the withdrawal of claims 21-27 as being directed toward a non-elected invention.

In response thereto, applicants filed this petition requesting reconsideration and removal of the finality of the Office action of October 5, 2007.

DISCUSSION

Applicants argue that the final Office action of October 5, 2007 is premature because the amendment submitted on May 29, 2007 does not meet the requirements for making a first Office action on the merits final according to the MPEP.

Specifically, applicants cite the MPEP § 706.07(b):

> [the] claims of a new application may be finally rejected in the first Office action in those situations where...(B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application.

Applicants argue that "...all claims of the new application(1) are **NOT** drawn to the same invention claimed in the earlier application, and therefore, the finality of the Office Action dated October 5, 2007 is clearly premature" (emphasis in applicants' original remarks). Applicants subsequently request removal of the finality of the Office action dated October 5, 2007.

The MPEP § 1208.01 provides the following description of 'new ground of rejection':

> There is no new ground of rejection when the basic thrust of the rejection remains the same such an *appellant has been given a fair opportunity to react to the rejection*...Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection.

Applicants' points are well taken and it is decided that claims 31-39 are not the same invention which the examiner considered prior to the filing of the RCE on August 29, 2007. As evidence thereof, claims 31-39 required a new consideration on the merits by the examiner which necessitated the need to reject claims 31-39 for a new reason based upon a new issue of inherency. Thus, it is determined that the examiner raised a new ground of rejection in the final Office action of October 5, 2007, thereby prohibiting finality of the Office action in accordance with MPEP § 706.07(b). It is decided that applicants have not been given a fair opportunity to counter the examiner's reasoning for rejecting claims 31-39.

Applicants' arguments are persuasive that the final Office action issued October 5, 2007 was premature and the finality of the Office action will be withdrawn.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner for an action not inconsistent with this decision.

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

Christopher Low
Acting Director, Technology Center 1600

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INTELLECTUAL PROPERTY LAW GROUP, LLP
12 SOUTH FIRST STREET - SUITE 1205
SAN JOSE, CA 95113

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OFFICE OF PETITIONS

In re Application of	:	
Chen Chin J. Huang	:	
Application No. 10/674,589	:	ON PETITION
Filed: September 29, 2003	:	
Attorney Docket No. SK703.PT1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $395 filing fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 3643.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date :02/14/07

Patent No. : 7072562 B2
Ser. No. : 10/674,601
Inventor(s) : DOMRES, RALF
Issued : 07/04/06
Title : **OPTICAL FIBERS MADE FROM MULTICOMPONENT GLASS**
Docket No. : **2749**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

STRIKER, STRIKER & STENBY
103 East Neck Road
Huntington NY 11743

LMN

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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OCT 2 6 2006

OFFICE OF PETITIONS

In re Application of Schneider Application No. 10/674,615 Filed: September 30, 2003 Attorney Docket No. 7784-000553CPA FOR: POLYMER COMPOSITE STRUCTURE REINFORCED WITH SHAPE MEMORY ALLOY AND METHOD OF MANUFACTURING SAME	: : : : :	DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed August 10, 2006, to revive the above-identified application.

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

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137(a)." 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 reply to non-final Office action, mailed November 30, 2004, which set an extendable period for reply of three (3) months. Having filed no reply, this application became abandoned on March 1, 2005. A Notice of Abandonment was mailed on June 29, 2005.

Petitioner states that the delay was unavoidable because the non-final Office action mailed on November 30, 2004 was not received at the correspondence address of record.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding

balance thereof; (2) the petition fee as set forth in § 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

This petition does not satisfy requirements (1) and (3).

With respect to (1), petitioner has not submitted a reply to the November 30, 2004 non-final Office action.

A copy of the November 30, 2004 non-final Office action is enclosed. This should enable petitioner to craft an appropriate reply.

With respect to (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C.§ 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

A review of the record indicates no irregularity in the mailing of the November 30, 2004 non-

final Office action, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

Petitioner has not proven non-receipt because (1) practitioner has not attested to the fact that a search of the file jacket indicates that the Office communication was not received and (2) practitioner has not included a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

In addition, the Office would like a statement from the person /persons who searched the HDP docket records. The petition indicates that an individual/individuals in the HDP docketing department reviewed the docket records and confirmed there was no record of HDP receiving the November 30, 2004 non-final Office action. It appears that someone other than the practitioner filing this petition performed the actual search of the docket records.

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

enclosures: copy of November 30, 2004 non-final Office action
copy of Notice of References Cited (PTO-892)
copy of Information Disclosure Citation ((PTO-1449)

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.
10/674,615	09/30/2003	Terry L. Schneider	7784-553/CPA	4204

27572 7590 11/30/2004

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER
DIXON, MERRICK L

ART UNIT	PAPER NUMBER
1774	

DATE MAILED: 11/30/2004

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

Office Action Summary	Application No.	Applicant(s)
	10/674,615	SCHNEIDER, TERRY L.
	Examiner	Art Unit
	Merrick Dixon	1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *RCEt filed 9-24-04*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,9-16 and 19-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,9-16 and 19-23* 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 _____ 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.

MERRICK DIXON
PRIMARY EXAMINER

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 *see office action*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

15

The instant application includes two(2) initialed and signed PTO-1449.

PTO-1449 having date of 2-9-04

PTO-1449 having date of 9-24-04.

16

The abstract of the disclosure is objected to because it contains the legal word, "comprise". Correction is required. See MPEP § 608.01(b).

17

It is noted that claims 14 and 2 are identical. Applicants are requested to make appropriate corrections.

18

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467,

114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

19

Claims 1-6 and 9-12, and 14 provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-6 and 9-12 of copending Application No. 10/287561. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

20

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.

21

1. Claims 19-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Hohman(US 5,871,604).

The cited reference teaches the claimed process comprising providing first and second fiber layers , placing a layer of a resin matrix with particles therein between the layers and heating the resulting laminate to form a composite structure- col 2, lines 34-45; col 8, lines 66- col 9, line 56. Concerning claims 20-23, the claimed type of particles used in

the resin matrix, the particles' shapes and dimensions, are directed to article limitations and are of are of no patentable consequences to the instant question for patentability which must be manipulatively distinct. Ex parte Pfeiffer, 1962 C.D. 408(1961).

22

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.

23

Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohman(US 5,871,604) in view of Hagood IV et al(US 6,048,622).

The primary reference to Hohman teaches the basic claimed invention including a process for making a composite structure including the the manipulative steps of providing first and second fiber layers and placing a layer of resin matrix , with particles dispensed therein, between the layers and heating the resulting laminate to produce a composite structure- col 2, lines 34-45; col 8, lines 66- col 9, line 56. The cited primary reference while teaches including particles in its patented resin material , fails to expressly teach SMA particles. The secondary reference to Hagood IV et al, however teaches that it is known in the instant art to utilize SMC particles in resin matrix when

forming similar types composite material such as the primary reference – col 12, lines 13-29. It would have been obvious to one of ordinary skill in the art at the time the invention is made to combine the teachings of the secondary reference and include SMC particles in Hohman's resin, in an attempt to make composite of desired properties/characteristics, see above and see primary reference, col 8, lines 62-65. This combination would have been further obvious in the absence of unexpected results. Concerning claims 15-16, the secondary reference in col 12, lines 5-29 teaches that the SMA particles would be necessarily deformed. It is submitted that the resulting diameters and shape of the particles would also be manipulated as same is deformed in the absence of unexpected results. Concerning claims 17 and 18, the secondary reference also teaches heating and curing the composite with the particles therein- see col 11, lines 30-45, it is accordinly submitted that the particles would experience phase changes during such operation. Additionally, it is submitted that the claimed diameters would have been readily obtained by the skilled artisan , if not disclosed, as such optimum value of a result effective variable, as diameters, involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

23

Applicants who wish to send a facsimile (draft copies) for the examiner's immediate review can do so by using the Examiner's personal fax number at 571-273-1520. The

faxing of all papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 (November 15, 1989). **NOTE: All facsimiles sent to the examiner's personal fax number should be in draft-forms and will be treated as informal. Same facsimiles will not be entered in the related applications unless otherwise agreed and noted by the examiner.**

The fax number for all other fascimile is 703-872-9306.

Information about **the status of an application** may be obtained from the Patent Information Retrieval system **(Private PAIR)**.

Status inquires for **published applications** may be retrieved from either **Private PAIR** or **Public PAIR**. Questions about the PAIR system should be directed to the Electronic Business Center at **866-217-9197.**

Any questions concerning the instant communication should be directed to Examiner Dixon, at 571-272-1520, Mondays to Thursdays, between 12 noon and 8 PM, eastern time . The examiner's supervisor, Mrs. Rena Dye, can be reached at 571-272-3186.

Merrick Dixon

Primary Examiner

Group 1700

Notice of References Cited	Application/Control No. 10/674,615	Applicant(s)/Patent Under Reexamination SCHNEIDER, TERRY L.	
	Examiner Merrick Dixon	Art Unit 1774	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-5,871,604	02-1999	Hohman, Alvin E.	156/62.8
	B	US-6,048,622	04-2000	Hagood et al.	428/461
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

FORM HDP-1449 (Based on Form PTO-1449)

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INFORMATION DISCLOSURE CITATION

(Use several sheets if necessary)

Sheet 1 of 1

SEP 2 4 2004 PATENT & TRADEMARK OFFICE

ATTORNEY DOCKET NO.	SERIAL NO.
7784-000553CPA	10/674,615
APPLICANT	
Schneider	
FILING DATE	GROUP
9/30/03	1774

U.S. PATENT DOCUMENTS

Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
1.	[illegible]	5,804,276	09/1998	Jacobs et al		

FOREIGN PATENT DOCUMENTS

Ref. Desig.	Examiner's Initials	Document Number	Date	Country	Class/ Subclass	Translation Yes	No
1.	[illegible]	H4-207100	07/1992	Japan			
2.	[illegible]	H6-36613	02/1994	Japan			

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)

Ref. Desig.	Examiner's Initials	
1.		

Examiner: [illegible] Date Considered: 11/01

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

O I P E JC68
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Sheet 1 of 1

ATTORNEY DOCKET NO.	SERIAL NO.
7784-000553/CPA	10/674,615
APPLICANT	
Terry L. Schneider	
FILING DATE	GROUP
September 30, 2003	1772

U.S. PATENT DOCUMENTS

Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
1.		5,614,305	03/1997	Paine et al		

FOREIGN PATENT DOCUMENTS

Ref. Desig.	Examiner's Initials	Document Number	Date	Country	Class/ Subclass	Translation Yes	No
1.							

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)

Ref. Desig.	Examiner's Initials	
1.		Ni-Ti SMA-Reinforced Al Composites by G.A. Porter, P.K. Liaw, T.N. Tiegs and K.H. Wu, October, 2000
2.		"Preparation of a smart composite material with TiNiCu shape memory particulates in an aluminum matrix" by Z.G. Wei, C.Y. Tang, W.B. Lee, L.S. Cui and D.Z. Yang; October 1997
3.		"Increased Impact Damage Resistance of Shape Memory Alloy Composites" by Kelly A. Tsoi, Rudy Stalmans, Martine Wevers, Jan Schrooten and Yiu-Wing Mai; date unknown
4.		"Fracture toughening mechanism of shape memory alloys due to martensite transformation" by Sung Yi and Shan Gao; date unknown
5.		"On the Interaction Between Transformation Toughening and Crack Bridging by Ductile Layers in Hybrid Composites" by M. Li, N. Katsube and W.O. Soboybio, Journal of Composite Materials, Vol. 35, No. 12/2001
6.		"The Evolution of an Aerospace Material: Influence of Design, Manufacturing, and In-Service Performance" by Alan G. Miller and Donald T. Lovell and James C. Seferis; Composite Structures 0263-8223/93/S06.00; 1993 Elsevier Science Publishers Ltd., England

Examiner: [illegible] Date Considered: 11/04

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

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P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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FEB 20 2007

OFFICE OF PETITIONS

In re Application of
Schneider
Application No. 10/674,615
Filed: September 30, 2003
Attorney Docket No. 7784-000553CPA
FOR: POLYMER COMPOSITE STRUCTURE REINFORCED WITH SHAPE MEMORY ALLOY AND METHOD OF MANUFACTURING SAME

DECISION DISMISSING PETITION

This is a decision on the reconsideration petition under 37 CFR 1.137(a), filed December 11, 2006, to revive the above-identified application.

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

Any further reconsideration 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. 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 reply to non-final Office action, mailed November 30, 2004, which set an extendable period for reply of three (3) months. Having filed no reply, this application became abandoned on March 1, 2005. A Notice of Abandonment was mailed on June 29, 2005.

Petitioner states that the non-final Office action mailed on November 30, 2004 was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has submitted a copy of the docket record where the requirement would have been entered had the November 30, 2004 non-final Office action been received. In addition, practitioner referenced the docket record in the petition and stated that a review of the application's docket record for the November 30, 2004 non-final Office action was fruitless. However, petitioner has not stated that a search of the file jacket was conducted.

As stated in pertinent part in the previous decision on petition:

Petitioner has not proven non-receipt because (1) practitioner has not attested to the fact that a search of the file jacket indicates that the Office communication was not received....

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

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

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

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

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

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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APR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Schneider :
Application No. 10/674,615 :
Filed: September 30, 2003 :
Attorney Docket No. 7784-553/CPA :
For: POLYMER COMPOSITE STRUCTURE REINFORCED WITH SHAPE MEMORY ALLOY AND METHOD OF MANUFACTURING SAME

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.137(a), filed March 21, 2007. The petition will be treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

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

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

Because the petition was ultimately granted under 37 CFR 1.181(a feeless petition), the $500.00 Rule 137(a) petition fee submitted on August 10, 2006 will be credited to deposit account no. 08-0750.

The Office contended that the above-identified application became abandoned for failure to timely reply to non-final Office action, mailed November 30, 2004, which set an extendable period for reply of three (3) months. Having filed no reply, this application became abandoned on March 1, 2005. A Notice of Abandonment was mailed on June 29, 2005.

Petitioner states that the non-final Office action mailed on November 30, 2004 was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

Petitioner has submitted a copy of the docket record where the requirement would have been entered had the November 30, 2004 non-final Office action been received. In addition, practitioner referenced the docket record in the petition and stated that a review of the application's file jacket and docket record for the November 30, 2004 non-final Office action was fruitless.

Petitioner has established non-receipt. The petition is **granted**, the June 29, 2005 Notice of Abandonment is **vacated**, and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to Technology Center A.U. 1774 for the re-mailing of the November 30, 2004 non-final Office action with a new period set for response.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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FEB 10 2005

OFFICE OF PETITIONS

In re Application of	:	
Richard N. Zare et al	:	
Application No. 10/674,652	:	ON PETITION
Filed: September 29, 2003	:	
Attorney Docket No. STNB.055US3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed September 9, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 10, 2004.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on January 13, 2005.

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

This matter is being forwarded to the Publishing Division.

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

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Paper No.

MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

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OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Bain et al. :
Application No. 10/674,684 :
Filed: September 29, 2003 : ON PETITION
Attorney Docket Number: :
554792000401 :

This is a decision on the Petition Under 37 CFR 1.53(e) to Show Receipt of Item(s) in Response to [] Notice of Omitted Item(s) of 8/16/04, filed September 10, 2004, requesting the above-identified application be accorded a filing date of September 29, 2003, including pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification.

The petition is **granted**.

The application was filed on September 29, 2003. However, on August 16, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, noting that the application had been accorded a filing date; however, pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification appeared to have been omitted from the application.

In response, Petitioner files the instant petition wherein Petitioner avers that pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification were included among 159 pages of Specification, Claims and Abstract filed initially, on September 29, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *intern alia*, 67 pages of Specification, Claims and Abstract, filed on March 29, 2004.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 159 pages of Specification by this Office on September 29, 2003. Petitioner

has also re-submitted pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification, with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted. The copy of pages pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification, supplied with the instant petition on September 10, 2004, will be used for examination purposes.

A refund of the petition fee has been credited to deposit account 03-1952 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of September 29, 2003, and an indication that pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification, were included among 159 pages of Specification that were present on filing on September 29, 2003.

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

Derek L. Woods

Derek L. Woods
Attorney Advisor
Office of Petitions

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COMMISSIONER FOR PATENTS
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SAN FRANCISCO, CA 94105-2482

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JAN 13 2005

OFFICE OF PETITIONS

In re Application of :
Bain et al. :
Application No. 10/674,684 :
Filed: September 29, 2003 : ON PETITION
Attorney Docket Number: :
554792000401 :

This is a decision on the Petition Under 37 CFR 1.182 to Correct Response to Notice of Omitted Item(s) Filed September 10, 2004, filed November 2, 2004.

The petition is **granted**.

The application was filed on September 29, 2003. However, on August 16, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, noting that the application had been accorded a filing date; however, pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification appeared to have been omitted from the application.

In response, Petitioner files a Petition to Show Receipt of Item(s) in Response to [] Notice of Omitted Item(s) of 8/16/04, on September 10, 2004, requesting the above-identified application be accorded a filing date of September 29, 2003, including pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification.

In that petition, Applicant asserted that pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification were included among 159 pages of Specification, Claims and Abstract filed initially, on September 29, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *intern alia*, 67 pages of Specification, Claims and Abstract, filed on March 29, 2004.

A review of the return receipt postcard reveals that Petitioner was correct. The postcard acknowledged receipt of 159 pages of Specification by this Office on September 29, 2003. Petitioner also re-submitted what was asserted to be pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification, with that petition.

Based upon Applicant's assertion, and the MPEP § 503, the petition was granted.

The instant petition

Applicant files the instant petition and now avers that the copy of pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification filed on September 10, 2004 were that of priority application 09/283,783, and not that of the above-identified application. Applicant seeks to substitute the pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification of the above-identified application for the pages of the priority application.

Accordingly, the petition is granted. The copy of pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification, supplied with the instant petition on November 2, 2004, will be used for examination purposes.

Deposit account 03-1952 has been charged the petition fee of $130.00 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of September 29, 2003, and an indication that pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification, were included among 159 pages of Specification that were present on filing on September 29, 2003, using the copy of pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification, supplied with the instant petition on November 2, 2004.

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

Derek L. Woods
Attorney Advisor
Office of Petitions

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Commissioner for Patents
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MICHAEL E CARMEN ESQ
M CARMEN & ASSOCIATES PLLC
SUITE 400
170 OLD COUNTRY ROAD
MINEOLA NY 11501

In re Application of Roby, et al. Application No. 10/674,692 Filed: September 30, 2003 Attorney Docket No. T-6172A (538-58)	: : : : :	ON PETITION

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed June 30, 2009.

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 December 3, 2008, which set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on March 4, 2009. The Office mailed a Notice of Abandonment on June 9, 2009.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a Notice of Appeal.

Please be advised that the two month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The matter is being returned to Group Art Unit 1796 to await for applicant's submission of the appeal brief.

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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NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of Vandecruys et al. :
Application No. 10/674,701 :
Filing Date: September 30, 2003 :
Attorney Docket No. JAB1467USCONT :

Decision on Petition

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

The petition is **granted**.

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed August 12, 2004. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned on November 12, 2004. A Notice of Abandonment was mailed on April 21, 2005.

The instant petition requests revival of the application.

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

Technology Center Art Unit 1600 will be informed of the instant decision so that the examiner may further consider the merits of the application in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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MINNEAPOLIS, MN 55416

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OFFICE OF PETITIONS

In re Application of	:	
Grabek, James R.	:	
Application No. 10/674,732	:	DECISION ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. 2971	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 27, 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 an Amendment and Terminal Disclaimer, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center 3735 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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GREENLEE WINNER AND SULLIVAN P C
4875 PEARL EAST CIRCLE
SUITE 200
BOULDER CO 80301

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In re Application of :
Dellapenna, et al. :
Application No. 10/674,767 : ON PETITION
Filed: September 30, 2003 :
Attorney Docket No. 87-01A

This is a decision on the petition under 37 CFR 1.181 filed on April 21, 2008, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The relevant application history is as follows:

- A Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address was filed by the assignee for the application on June 14, 2007, and signed by Jane Nichols. There is no indication of Ms. Nichols authority to sign the document.
- On June 22, 2007, the USPTO mailed a "Notice Regarding Power of Attorney" indicating that the power of attorney has not been entered because no certificate under 37 CFR 3.73(b) was filed. In fact, the certificate under 37 CFR 3.73(b) was previously filed on May 29, 2007.
- On July 2, 2007, applicant filed correspondence informing the USPTO that the 37 CFR 3.73 certificate was already of record and requesting the power of attorney be entered.
- The power of attorney was not entered.
- On August 6, 2007, a Notice of Non-Compliant Amendment was mailed to the previous attorney of record.
- On October 25, 2007, an Information Disclosure Statement was filed.
- On March 21, 2008, a Notice of Abandonment was mailed indicating that a proper response to the June 22, 2007, Notice Regarding Power of Attorney was not received.

A review of the Notice Regarding Power of Attorney does not reveal a period set for reply. The application could not, therefore, have gone abandoned for failure to respond to the Notice Regarding Power of Attorney and this indication in the Notice of Abandonment was a mistake. It appears that the application went abandoned for failure to file a timely and proper response to the August 6, 2007, Notice of Non-Compliant Amendment which was sent to the previous attorney.

Further review of the application file history reveals that on February 22, 2008, applicant filed a document titled "Applicant's Statement of Substance of Interview" in which applicant states that the applicant did not receive the Notice of Non-Compliant Amendment and that Examiner Kallis indicated that the Notice of Non-Compliant Amendment would be reissued as soon as the correspondence address

was changed pursuant to the request filed June 14, 2007. It is noted, however, that the June 14, 2007, Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address was not proper; it was proper for the USPTO to refrain from entering the change requested at that juncture. It is noted that that request to change the address and power of attorney was filed by assignee for the application, yet there was no indication that the person who signed the document for the assignee was empowered by the assignee to do so. The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address was signed by a Jane Nichols with no indication of Ms. Nichols position or relation to the assignee[1]. It would not have been proper for the USPTO to enter the new power of attorney and change the correspondence address pursuant to this filing because it was not apparent that assignee had authorized the changes. Based on the aforementioned, the Notice of Non-Compliant Amendment was properly sent to the correspondence address of record as it was on August 6, 2007, and petitioner's non-receipt of the Notice of Non-Compliant Amendment does not justify withdrawal of the holding of abandonment.

It is noted that petitioner maintains that the failure to have an authorized representative of the assignee sign the Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address cannot be a cause for abandonment of the application because petitioner was not informed of this defect in the document. It is well established that applicants and practitioners are charged with having constructive knowledge of the rules and regulations governing the prosecution of the patent application, such as changes to the power of attorney and/or correspondence address will only be made when the change is authorized by all of the inventors, a registered attorney, or a properly empowered assignee. Further, petitioner's failure to file a properly executed Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence is not mitigated by the failure of the USPTO to notify the petitioner that document was defective.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,540.00 for a large entity and $770.00 for a verified small entity), and a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

[1] It is noted that the 3.73(b) certificate filed May 29, 2007, was signed by Ms. Ellen Winner who was authorized to sign the document on behalf of the assignee. However, the later filed Revocation of Power of Attorney and Appointment of Attorney and Change of Correspondence Address was signed by Jane Nichols without any notation of her position with assignee.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 2 7 2008

OFFICE OF PETITIONS

GREENLEE, WINNER AND SULLIVAN P.C.
4875 PEARL EAST CIRCLE, SUITE 200
BOULDER, CO 80301

In re Application of
Dellapenna et al.
Application No. 10/674,767
Filed: September 30, 2003
Attorney Docket No. 87-07A

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed August 6, 2007, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 7, 2007. A Notice of Abandonment was mailed March 21, 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 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 Notice of Non-Compliant Amendment mailed August 6, 2008 is accepted as having been unintentionally delayed.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

The application file is being referred to Technology Center AU 1638 for appropriate action on the concurrently filed amendment.

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

NICHOLAS J. SEAY
QUARLES & BRADY LLP
P O BOX 2113
MADISON WI 53701-2113

COPY MAILED

JUN 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Green et al.	:	
Application No. 10/674,768	:	ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. 700706.90238	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 16, 2005. 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). An amendment was filed on June 19, 2006 but, according to the examiner, did not *prima facie* place the application in condition for allowance. Also, a three month extension of time was obtained for the filing of that amendment. Accordingly, the date of abandonment of this application is June 17, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $395.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $750.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1743for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **November 05,2007**

TO SPE OF : ART UNIT **1791**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/674,807** Patent No.: **7270538 B2**

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

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

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

DO NOT SENT TO ATTORNEY

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

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

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: Change to claim 38 is approved.

Tim Heitbrink
TIM HEITBRINK
~~PRIMARY EXAMINER~~
GROUP ~~130~~ 1791
11-5-07

SPE 1791

UNITED STATES 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
1100 NEW YORK AVE NW
WASHINGTON DC 20005

COPY MAILED

JUL 27 2004

OFFICE OF PETITIONS

In re Application of	:	
Robert A. Drebin, David Wang,	:	
Christopher J. Migdal	:	
Application No. 10/674,825	:	DECISION ACCORDING STATUS
Filed: October 1, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. (678.01)		

This is in response to the petition under 37 CFR 1.47(a), filed June 9, 2004.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on October 1, 2003, without a fully executed oath or declaration. Accordingly, on May 21, 2004, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application", requiring, *inter alia*, a fully executed oath or declaration as well as the surcharge for its late filing. This notice set a shortened statutory period for reply of two months.

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 included an e-mail from inventors David Wang and Robert Drebin, both dated April 5, 2004, in which they refused to sign the declaration for the above-identified application.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted 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 addresses 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 2621 for docketing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

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

DAVID WANG
45742 STANFORD COURT
FREMONT CA 94539

COPY MAILED

JUL 27 2004

OFFICE OF PETITIONS

In re Application of :
Robert A. Drebin, David Wang, :
Christopher J. Migdal :
Application No. 10/674,825 : LETTER
Filed: October 1, 2003 :
Title: Method of and Apparatus for :
Compressing and Uncompressing Image
Data

Dear Mr. Wang:

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 (703) 305-0272. 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 by

Cliff Congo
Petitions Attorney
Office of Petitions

George S. Bardmesser (phone: 202-371-2600)
Sterne Kessler Goldstein & Fox
1100 New York Ave NW
Washington DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT A. DREBIN
1100 CEDAR ST
PALO ALTO CA 94301

COPY MAILED

JUL 27 2004

OFFICE OF PETITIONS

In re Application of
Robert A. Drebin, David Wang,
Christopher J. Migdal
Application No. 10/674,825
Filed: October 1, 2003
Title: Method of and Apparatus for Compressing and Uncompressing Image Data

LETTER

Dear Mr. Drebin:

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 (703) 305-0272. 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

George S. Bardmesser (phone: 202-371-2600)
Sterne Kessler Goldstein & Fox
1100 New York Ave NW
Washington DC 20005

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/8/09 **Paper No.:** _____

TO SPE OF : ART UNIT 2621 Sherali, Ishrat

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/674825 Patent No.: 7330587

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

/Bhavesh Mehta/ SPE, TC 2600 — **SPE**

2624 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

RUSSEL H. MARVIN
TORRINGTON RESEARCH COMPANY
89 COMMERCIAL BOULEVARD
TORRINGTON, CT 06790

COPY MAILED
APR 23 2004
OFFICE OF PETITIONS

In re Application of: :
Peresada et al. :
Application No. 10/674,832 :
Filed: September 29, 2003 :
Title of Invention: METHOD AND :
APPARATUS FOR MOUNTING A PLURALITY :
OF MAGNET SEGMENTS ON A BACK RING :

DECISION DISMISSING
PETITION UNDER
37 CFR 1.47(b)

This is in response to the correspondence filed February 17, 2004, which is properly treated as a petition under 37 CFR 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). The one (1) month extension of time request is hereby granted.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor, AND BE ADDRESSED TO petitions Attorney Derek L. Woods. 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 29, 2003, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on December 19, 2003, requiring *inter alia*, a properly signed oath or declaration.

In response to the Notice, Applicant files the instant petition wherein Applicant avers that the nonsigning inventor, Carey Linkovich, refuses to join in the application. No documentary evidence supporting this assertion has been filed.

Applicable Law

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1), (2) and (4) set forth above.

As to item (1), where it is alleged that an applicant refuses to join an application, the applicant must establish that the nonsigning inventor was presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

> 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.

MPEP 409.03(d).

As to item (2), Applicant has failed to provide an oath or declaration in compliance with 35 U.S.C. §§ 115 and 116. A properly executed oath or declaration is required. An acceptable oath or declaration form may be downloaded from the USPTO Website at www.uspto.gov. The correct form number is PTO/SB/01.

As to item (4), the last known address of the non-signing inventor - the address at which the inventor customarily receives mail - must be provided. *See*, MPEP 409.03 and 605.03.

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

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

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

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES 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.

RUSSEL H. MARVIN
TORRINGTON RESEARCH COMPANY
89 COMMERCIAL BOULEVARD
TORRINGTON, CT 06790

COPY MAILED
AUG 1 6 2004
OFFICE OF PETITIONS

In re Application of:
Peresada et al.
Application No. 10/674,832
Filed: September 29, 2003
Title of Invention: METHOD AND APPARATUS FOR MOUNTING A PLURALITY OF MAGNET SEGMENTS ON A BACK RING

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed June 23, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Carey L. Linkovich, refuses to join in the application.

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

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

Mr. Carey L. Linkovich
19 STEVENS STREET
AVON, CT 06001

COPY MAILED
AUG 1 6 2004
OFFICE OF PETITIONS

In re Application of: :	
Peresada et al. :	
Application No. 10/674,832 :	DECISION GRANTING
Filed: September 29, 2003 :	PETITION UNDER
Title of Invention: METHOD AND :	37 CFR 1.47(a)
APPARATUS FOR MOUNTING A PLURALITY :	
OF MAGNET SEGMENTS ON A BACK RING :	

Dear Mr. Linkovich:

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: RUSSEL H. MARVIN
TORRINGTON RESEARCH COMPANY
89 COMMERCIAL BOULEVARD
TORRINGTON, CT 06790

UNITED STATES 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.

RUSSEL H. MARVIN
TORRINGTON RESEARCH COMPANY
89 COMMERCIAL BOULEVARD
TORRINGTON, CT 06790

COPY MAILED
AUG 1 6 2004
OFFICE OF PETITIONS

In re Application of:
Peresada et al.
Application No. 10/674,832
Filed: September 29, 2003
Title of Invention: METHOD AND APPARATUS FOR MOUNTING A PLURALITY OF MAGNET SEGMENTS ON A BACK RING

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed June 23, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Carey L. Linkovich, refuses to join in the application.

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

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

Mr. Carey L. Linkovich
19 STEVENS STREET
AVON, CT 06001

COPY MAILED
AUG 1 6 2004
OFFICE OF PETITIONS

In re Application of: :	
Peresada et al. :	
Application No. 10/674,832 :	DECISION GRANTING
Filed: September 29, 2003 :	PETITION UNDER
Title of Invention: METHOD AND :	37 CFR 1.47(a)
APPARATUS FOR MOUNTING A PLURALITY :	
OF MAGNET SEGMENTS ON A BACK RING :	

Dear Mr. Linkovich:

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: RUSSEL H. MARVIN
TORRINGTON RESEARCH COMPANY
89 COMMERCIAL BOULEVARD
TORRINGTON, CT 06790

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MILLER JOHNSON SNELL CUMMISKEY, PLC
800 CALDER PLAZA BUILDING
250 MONROE AVE N W
GRAND RAPIDS MI 49503-2250

In re Application of
Michael P. Upton
Application No. 10/674,833
Filed: September 30, 2003
For: **VEHICULAR REPEATER MULTI-UNIT SYSTEM AND METHOD FOR ALLOWING THE FIRST VEHICULAR REPEATER UNIT ON-SCENE TO REMAIN PRIORITY**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as Attorney(s) of record and change of address filed on December 17, 2004.

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

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents associated with Customer Number 20576 in the request to withdraw are withdrawn.

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

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

Cc:

Motorola, Inc.
8000 West Sunrise Boulevard, Room 1610
Plantation, Florida 33322-9947

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

Applicant	: Yong-Hwa Kim	: DECISION ON REQUEST FOR
Patent Number	: 7580978	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/674,848	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1006** 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
10/674,853	09/29/2003	2827	1500	YOR920030338US1	3	43	7

CONFIRMATION NO. 6319

CORRECTED FILING RECEIPT

OC000000012595783

29683
HARRINGTON & SMITH, LLP
4 RESEARCH DRIVE
SHELTON, CT 06484-6212

Date Mailed: 05/11/2004

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)

Katayun Barmak, White Plains, NY;
Hyungjun Kim, Lagrangeville, NY;
Ismail C. Noyan, Chappaqua, NY;
Stephen M. Rossnagel, Pleasantville, NY;

Assignment For Published Patent Application

International Business Machines Corporation;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/09/2004

Projected Publication Date: 03/31/2005

Non-Publication Request: No

Early Publication Request: No

Title

Atomic laminates for diffusion barrier applications

Preliminary Class
257

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

GRANTED

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

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NOT GRANTED

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

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Cummings & Lockwood
Granite Square
700 State Street
P.O. Box 1960
New Haven CT 06509-1960

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OFFICE OF PETITIONS

In re Application of	:	
J. Thomas Light	:	DECISION GRANTING
Application No. 10/674,854	:	PETITION
Filed: September 29, 2003	:	
Attorney Docket No. 565647.0002		

This is a decision on the petition under 37 CFR 1.10(c), filed January 27, 2005, requesting that the above-identified application be accorded a filing date of September 29, 2003, rather than the presently accorded filing date of September 30, 2003.

Petitioner alleges that the application was deposited in Express Mail service on September 29, 2003. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV335595952US. The date-in indicated on Express Mail label No. EV335595952US is September 29, 2003. Additionally, the Express Mail label contains a United States Postal Service (USPS) stamp of September 29, 2003. The same Express Mail label number was placed on the original application papers located in the official file.

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

The Office of Initial Patent Examination is directed to correct the filing date to **September 29, 2003.**

Telephone inquiries 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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Director's Office
Group 3700

Timothy J. Zarley
Zarley Law Firm
400 Locust Street, Suite 200
Des Moines, Iowa 50309

In re Application of
William T. Ball
Serial No. : 10/674,862
Filed : September 30, 2003
For : **METHOD AND MEANS FOR AN OVERFLOW ASSEMBLY TO BATHTUBS AND THE LIKE**

: DECISION ON PETITION
: TO MAKE SPECIAL
: (INFRINGEMENT)

This is a decision on the petition under C.F.R. § 1.102(d) filed November 22, 2004, to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed November 22, 2004, includes all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750
rt/ 9/1/05

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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/30/2010

Applicant	: Bernard Rummel	: DECISION ON REQUEST FOR
Patent Number	: 7620916	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/674,875	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **846** 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

Pillsbury Winthrop Shaw Pittman LLP
2475 Hanover Street
Palo Alto, CA 94304-1114

In re Application of David Currie, et al. Application No. 10/674,878 Filed: September 29, 2003 Attorney Docket No. 067811-0306155 SCN-001 (CIP)	: : : : :	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed April 25, 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 29, 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. The projected publication date is July 21, 2005.

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

This application is being referred to Technology Center Art Unit 2185 for examination in due course.

Marianne E. Jenkins

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

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Straub & Pokotylo
788 Shrewsbury Avenue
Tinton Falls, NJ 07724

Mail Date: 05/24/2010

Applicant	: Jeremy Bem	: DECISION ON REQUEST FOR
Patent Number	: 7647242	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/674,888	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **583** 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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DEC 26 2007

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

In re Application of	:
Michael John Reed et al	:
Serial No.: 10/674,892	: PETITION DECISION
Filed: September 30, 2003	:
Attorney Docket No.: 674519-2011.1	:

This is in response to the petitions under 37 CFR 1.181, filed October 3, 2007, requesting withdrawal of the Finality of the Office action mailed July 3, 2007, and October 11, 2007, requesting withdrawal of the first petition.

BACKGROUND

A review of the file history shows that the examiner mailed a Final Office action to applicants on July 3, 2007. Subsequent thereto applicants requested an interview with the examiner and Supervisor. On October 3, 2007, applicants filed a petition to withdraw Finality of the Office action mailed July 3, 2007. On October 4, 2007, an interview was held and it was agreed by the examiner and Supervisor to withdraw the Finality of the Office action mailed July 3, 2007. In view of this decision applicants filed a second petition on October 11, 2007, to withdraw the first petition.

DISCUSSION

In view of the agreement by the examiner and Supervisor to withdraw Finality, the first petition is moot and the second petition is granted.

DECISION

The first petition to withdraw Finality is **DISMISSED.**

The second petition to withdraw the first petition is **GRANTED**.

The application will be forwarded to the examiner for consideration of applicants' reply filed October 11, 2007.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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

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OFFICE OF PETITIONS

In re Patent No. 6,959,905	:	
Issued: 1 November, 2005	:	
Application No. 10/674,895	:	ON PETITION
Filed: 29 September, 2003	:	
Atty Docket No. 3675-030216	:	

This is a decision in reference to the petition filed on 8 March, 2006, styled under 37 CFR 1.183, which is being treated as a renewed request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

As a certificate of correction correcting the assignee was issued on 18 April, 2006, no further action is necessary.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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IBM Corporation
INTELLECTUAL PROPERTY LAW DEPARTMENT
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/21/2010

Applicant	: Robert F. Bartfai	: DECISION ON REQUEST FOR
Patent Number	: 7610318	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/674,900	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **780** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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INFINEON
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CHICAGO IL 60610

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MAR 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Rainer Hoehler	:	
Application No. 10/674,905	:	ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. 2002P16866US	:	

This is a decision on the petition, filed March 24, 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 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2827 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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CHICAGO, IL 60610

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MAY 18 2005

OFFICE OF PETITIONS

In re Application of :
Hoehler : DECISION ON APPLICATION FOR
Application No. 10/674,905 : PATENT TERM ADJUSTMENT
Filed: September 30, 2003 :
Atty. Dkt. No.: 2002P16866US :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" timely filed October 18, 2004 (certificate of mailing date of October 14, 2004).

The application for patent term adjustment ("PTA") under 37 C.F.R. § 1.705(b) is hereby **GRANTED**.

The PAIR screen will continue to reflect a Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of zero days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants do not argue that the overall adjustment of zero days as of the time of allowance is correct. Applicants do, however, contest the 10 days of reduction of adjustment for applicants delay and argue that there was no failure to engage in reasonable efforts to conclude prosecution by applicant.

A review of the application history reveals that there were no adjustments for Office delays at the time of allowance.

The Office, however, errantly entered April 8, 2004 as the date a response to the Notice to File Missing Parts of Nonprovisional Application was filed. The Notice was mailed December 29, 2003 and a proper response was in fact timely submitted on March 29, 2004.

In view thereof, at the time of Notice of Allowance there were no delays by either the Office or applicant, resulting in a PTA of zero days.

The Office acknowledges receipt of the required application fee of $200.00.

The application file is being forwarded to the Publications Division for issuance of a patent.

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

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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TECHNOLOGY CENTER 2600

HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

In re Application of	:
Michael F. MALONE, et al.	:
Application No. 10/674,910	:DECISION ON PETITION
Filed: September 29, 2003	:TO MAKE SPECIAL
For: FORENSIC COMMUNICATION APPARATUS AND METHOD	:

This is a decision on the petition to make special filed July 19, 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) sets forth the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d).

M.P.E.P. §708.02 (XI) INVENTIONS FOR COUNTERING TERRORISM
In view of the importance of developing technologies for countering terrorism and the desirability of prompt disclosure of advances made in these fields, the U.S. Patent and Trademark Office will accord "special" status to patent applications relating to counter-terrorism inventions.
International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Petitioner's submission meets the criteria set out above with respect to countering terrorism as in M.P.E.P. § 708.02(XI). Accordingly, the Petition is **GRANTED**.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
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Fort Collins, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of :
Dougherty, et al. : DECISION ON PETITION
Application No. 10/674,923 :
Filed: September 30, 2003 :
Docket No.: 200304427-2 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 16, 2006.

This application was held abandoned March 16, 2006 for failure to timely submit a proper reply to the Notice of Allowance and Issue Fee Due (Notice) December 15, 2005. Notice of Abandonment was mailed April 21, 2006.

Petitioners assert that the issue fee transmittal submitted March 10, 2006 inadvertently failed to authorize the Office to charge the issue fee and publication fee payments to applicants' deposit account. However, petitioners argue that this is a forgivable oversight within the meaning of MPEP 1306.

The arguments advanced by petitioners have been carefully reviewed and found convincing.

In view thereof, the petition is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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In re Application of	:	
Mihm et al.	:	
Application No. 10/674,936	:	ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. 884.929US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 21, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on February 21, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 2600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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APR 28 2009

OFFICE OF PETITIONS

In re Application of	:	
KUMHYR, David B. et al.	:	
Application No. 10/674,965	:	DECISION ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. **AUS920030728US1**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 14, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the replay to the non-final Office action of November 14, 2007 is accepted as having been unintentionally delayed.

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

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3623 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

9/30/03

Docket Number **AUS920030728US1**

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

John W. Henderson, Jr., Reg. No. 26,907; Thomas E. Tyson, Reg. No. 28,543; Robert M. Carwell, Reg. No. 28,499; Jeffrey S. LaBaw, Reg. No. 31,633; Douglas H. Lefeve, Reg. No. 26,193; Casimer K. Salys, Reg. No. 28,900; David A. Mims, Jr., Reg. No. 32,708; Mark E. McBurney, Reg. No. 33,114; Leslie A. Van Leeuwen, Reg. No. 42,196; Christopher A. Hughes, Reg. No. 26,914; John E. Hoel, Reg. No. 26,279; Joseph C. Redmond, Jr., Reg. No. 18,753; Marilyn S. Dawkins, Reg. No. 31,140; Diana L. Roberts, 36,654; Duke W. Yee, Reg. No. 34,285; Stephen J. Walder, Jr., Reg. No. 41,534; Stephen R. Tkacs, Reg. No. 46,430; Lisa L.B. Yociss, Reg. No. 36,975; Patrick Holmes, Reg. No. 46,380; Wayne P. Bailey, Reg. No. 34,289; Cathrine K. Kinslow, Reg. No. 51,886; and Richard J. Moura, Reg. No. 34,883.

Send correspondence to: **USPTO Customer Number 35525**, Duke W. Yee, Carstens, Yee & Cahoon, LLP, P.O. Box 802334, Dallas, Texas 75380 and direct all telephone calls to Duke W. Yee, (972) 367-2001.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF SOLE OR FIRST INVENTOR: David Bruce Kumhyr

INVENTORS SIGNATURE: _____ DATE: 29 Sep 03

RESIDENCE: 8934 Appaloosa Run
Austin, Texas 78737

CITIZENSHIP: United States

POST OFFICE ADDRESS: Same as above

FULL NAME OF SECOND INVENTOR: Jan K. Melear

INVENTORS SIGNATURE: Jan K. Melear DATE: Sept 29, 2003

RESIDENCE: 5213 McDade Drive
Austin, Texas 78735

CITIZENSHIP: United States

POST OFFICE ADDRESS: Same as above

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101 SOUTH TRYON STREET
SUITE 4000
CHARLOTTE NC 28280-4000

In re Application of	:	
Eric K. Mangiardi et al.	:	
Application No. 10/674,972	:	
Filed: September 30, 2003	:	DECISION ON PETITION
Attorney Docket No.	:	UNDER 37 C.F.R. § 1.181(A)
047956/288225	:	
Title: REMOVABLE BILIARY STENT	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on July 9, 2008.

BACKGROUND

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed December 26, 2006, which set a shortened statutory period to reply for one month. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on January 27, 2007. A Notice of abandonment was mailed on July 11, 2007.

With the present petition, Petitioner has alleged that the mailing was mailed to the incorrect address.

The electronic file has been reviewed, and it is clear that a change of address was received on March 3, 2005, which changed the address of record to the law firm of Alston & Bird, but the above-mentioned communication was not entered. Consequently,

the notice was mailed to the Assignee, the address of record at the time.

The Change of Correspondence Address received on March 3, 2005 has been entered and made of record.

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

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

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the Restriction Requirement, mailed December 26, 2006, and will set a new period for response.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Becker et al.	:	DECISION ON PETITION TO
Application Number: 10/674979	:	WITHDRAW HOLDING OF
Filing Date: 09/30/2003	:	ABANDONMENT
Attorney Docket Number:	:	
AUS920030623US1	:	

This is a decision on the petition filed on February 20, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a response to the non-final Office action mailed on July 27, 2007, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on February 7, 2008.

Petitioner asserts that the non-final Office action mailed on July 27, 2007, was never received.

In the absence of any irregularity in the mailing of the non-final Office action mailed on July 27, 2007, there is a strong presumption that the non-final Office action mailed on July 27, 2007, was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action mailed on July 27, 2007, was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received"

1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the non-final Office action mailed on July 27, 2007, was properly mailed to petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in the mailing of the non-final Office action mailed on July 27, 2007, on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioners' counsel, registered patent practitioner Duke W. Yee, asserts that a search of the file jacket and docket records indicates that the non-final Office action mailed on July 27, 2007, was not received. A copy of the docket record where the non-final Office action mailed on July 27, 2007 would have been entered had it been received have been provided and has been referenced in the practitioner's statement.

The petitioner has made a sufficient showing of nonreceipt of the non-final Office action mailed on July 27, 2007. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file is being referred to Technology Center Art Unit 2155 for remailing of the non-final Office action mailed on July 27, 2007. The period for reply will be reset from the mailing date thereof.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Richard Louis Arndt et al.
Application No. 10/674,985
Filed: September 30, 2003
Attorney Docket No.: AU920030601US1

This is a decision on the petition filed March 24, 2009 under 37 CFR 1.137(a) which is being treated under CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed January 25, 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 April 28, 2008. Accordingly, a Notice of Abandonment was mailed August 21, 2008.

As the petition form used was that for a petition under 37 CFR 1.137(a), the requirements for revival under the unavoidable standard have not been met. As well, since the fee authorization was for a fee under the unintentional standard, this petition has been treated under 37 CFR 1.137(b).

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to Technology Center 2144 for appropriate action on the amendment filed March 24, 2009.

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

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

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

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

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

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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wk

Mailed: 10/17/06

In re application of	:	
Voss-Kehl et al.	:	DECISION ON
Serial No. 10/674,999	:	PETITION
Filed: September 30, 2003	:	
For: Printable Insulating Compositions and Printable Articles	:	

This is a response to the PETITION UNDER RULE 37 C.F.R. 1.181(a) TO WITHDRAW NOTICE OF APPEAL, filed September 14, 2006. The petition requests that the notice of appeal was erroneously filed before Applicant realized that a non-final Office Action was issued on August 29, 2006.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

The Petition is **GRANTED**.

The Notice of Appeal is withdrawn.

William Krynski, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

Robert J. Pechman
Office of Intellectual Property Counsel
3M Innovative Properties Company
PO Box 33427
St. Paul, MN 55133-3427

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MINNEAPOLIS, MN 55402-3319

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OFFICE OF PETITIONS

In re Application of :
Randy J. Longsdorf et al :
Application No. 10/675,014 :
Filed: September 30, 2003 :
Attorney Docket No. R11.12-0789

ON PETITION

This is a decision on the petition filed, March 6, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 2, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2125 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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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Randy J. Longsdorf	: DECISION ON REQUEST FOR
Patent Number	: 7627441	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/675,014	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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.

Pet. Dec.

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VP
PAPER NO. ___

JUN 29 2004

In re Application of Stephan Staphanos et al. Serial Number: 10/675,018 Filed: September 30, 2003 For: CHEMICAL ANALYZER FOR SULFUR	: : : : :	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed December 4, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

David C. Bohn
Westman, Champlin & Kelly
Suite 1600
900 Second Avenue South
Minneapolis MN 55402-3319

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SPOKANE, WA 99201

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OFFICE OF PETITIONS

In re Application of	:	
Michael C. Koss	:	
Application No. 10/675,025	:	DECISION ON PETITION
Filed: September 30, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. MS1-0238USC1	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed November 7, 2005, to make the above-identified application special based on prospective manufacture as set forth in M.P.E.P. § 708.02, Section I.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section I: Manufacture, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted;
>
> If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity

immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicant must provide 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.

The instant petition fails to meet the requirements set forth above for special status.

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 Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2662 for action in its regular turn.

Irvin Dingle for

David Bucci
Petitions Examiner
Office of Petitions

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DENIRO/RAMBUS
575 MARKET STREET
SUITE 2500
SAN FRANCISCO, CA 94105

Mail Date: 04/21/2010

Applicant	: Dennis Kim	: DECISION ON REQUEST FOR
Patent Number	: 7668271	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/675,027	: OF WYETH
Filed	: 09/30/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

United States
Patent And
Trademark Office

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

PETITION DECISION

09/29/04

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

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/675034 received on 08/02/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CAROLE A. MULCHINSKI
THE AEROSPACE CORPORATION
M1/040
2350 EAST EL SEGUNDO BOULEVARD
EL SEGUNDO, CA 90245

COPY MAILED

OCT 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael James O'Brien et al	:	
Application No. 10/675,052	:	ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. D497	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 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 June 7, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 8, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc:
Derrick Michael Reid
The Aerospace Corporation
P.O. Box 92957, M1/040
Los Angeles, CA 90009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JEFFERY E. BACON
LEGAL DEPARTMENT - M495
P O BOX 1926
SPARTANBURG, SC 29304

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SEP 21 2005

OFFICE OF PETITIONS

In re Application of	:
Alfred R. DeAngelis et al	:
Application No. 10/675,061	: DECISION GRANTING PETITION
Filed: September 30, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5664	:

This is a decision on the petition, filed September 16, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3742 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 Petition

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JEFFERY E. BACON
LEGAL DEPARTMENT
M-495
PO BOX 1926
SPARTANBURG, SC 29304

COPY MAILED
NOV 21 2005
OFFICE OF PETITIONS

In re Application of :
Alfred R. DeAngelis, et al. :
Application No. 10/675,061 : ON PETITION
Filed: September 30, 2003 :
Attorney Docket No. 5664 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 14, 2005, requesting that the above-identified application be withdrawn from issue. A Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS) accompanied the present petition.

The petition is dismissed as moot.

Since the RCE was filed within the period set for paying the issue fee, as required by the Notice of Allowance and Issue Fee Due mailed October 6, 2005, prosecution is reopened in the present application and no petition under 37 CFR 1.313 is necessary.

The application is being referred to Technology Center AU 3742 for processing of the RCE under 37 CFR 1.114.

Petitioner is reminded that the issue fee paid on August 11, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

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

In re Application of

Karaoguz, et al.

Application No. 10/675,073

Filed: September 30, 2003

Attorney Docket No. 14277US02

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed May 4, 2009. The final Office action set a shortened statutory period for reply of three months from its mailing date. A response was filed on November 4, 2009, with an extension of time within the third month. An Advisory Action mailed November 17, 2009, advised that the response of November 4, 2009, failed to place the application in condition for allowance. No further responses were received and the application became abandoned on November 5, 2009. Notice of Abandonment was mailed on February 10, 2009.

The Request for Continued Examination filed January 27, 2010, is noted.

The application file is being forwarded to Technology Center 2400, GAU 2427 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 9, 2007

TO SPE OF : ART UNIT ~~3730~~ 3673

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/675089 patent No.: 6,146,666

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: _____

SPE

3673

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROCKWELL AUTOMATION
ATTENTION: SUSAN M. DONAHUE, 704-P
1201 SOUTH SECOND STREET
MILWAUKEE, WI 53204

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MAY 16 2006

OFFICE OF PETITIONS

In re Application of :
Juergen K. Weinhofer, et al. :
Application No. 10/675,100 :
Filed: September 30, 2003 :
Attorney Docket No.: 081696-0250 (02AB199) :

ON PETITION

This is a decision on the petition, filed May 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 January 5, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2837 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROCKWELL AUTOMATION
ATTENTION: SUSAN M. DONAHUE, 704P
1201 SOUTH SECOND STREET
MILWAUKEE, WI 53204

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NOV 21 2006

OFFICE OF PETITIONS

In re Application of :
Juergen K. Weinhofer et al. :
Application No. 10/675,100 :
Filed: September 30, 2003 :
Attorney Docket No. 081696-0250(02AB199) :

ON PETITION

This is a decision on the petition filed November 3, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned September 4, 2006 for failure to timely pay the issue fee on or before September 2, 2006. Accordingly, a Notice of Abandonment was mailed October 9, 2006.

The issue fee and publication fee paid January 5, 2006 has been applied per the request found in the Issue Fee Transmittal (PTOL-85(b) filed herein with the instant petition. As well, the petition fee has been applied. All other requirements of 37 CFR 1.137(b) including the submission of the, having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

Robert A. McLauchlan
PO Box 26780
Austin, TX 78755

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SEP 22 2006

OFFICE OF PETITIONS

In re Patent of Felder :
Patent No. 6,967,468 :
Issue Date: November 22, 2005 :
Application No. 10/675,101 :
Filing Date: September 30, 2003 :
Attorney Docket No. SIG000092 :

Letter

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed July 18, 2006.

The deficiency payment of $700 is hereby accepted.

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

The file is being forwarded to Files Repository.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of :
Wacks et al. :
Application No. 10/675,107 :
Filed: September 30, 2003 :
Attorney Docket Number: DEP-673CIP2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 5,2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of August 11, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No timely extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on November 12 , 2006. A Notice of Abandonment was mailed on March 6, 2007.

This Petition is hereby **Granted**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MR JASON R ELLESTAD
9243 CHESTER PARK DR
HOUSTON TX 77064-3815

COPY MAILED

JUN 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Jason Richard Ellestad, Mark	:	
Jonathan Peoples	:	
Application No. 10/675,124	:	ON PETITION
Filed: October 1, 2003	:	

This is in response to the letter filed November 1, 2005, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. The petition was recently forwarded to the Office of Petitions for consideration.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." There is no fee for the renewed petition. 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 **proper** response to the Office action mailed March 4, 2005, which set a shortened statutory period for reply of two (2) months. Extensions of time under 37 CFR 1.136(a) were available. Applicant filed a reply on April 12, 2005. However, the response was not proper because it lacked signatures from the inventors.

Pursuant to 37 CFR 1.33(b), papers filed in a patent application must be signed by:

> (1) A registered 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) An assignee as provided for under §3.71(b) of this chapter; or
> (4) **All of the applicants (§1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with §3.71 of this chapter.**

A review of the papers filed on April 12, 2005 reveals that they lacked a signature from applicants Ellestad and Peoples. Accordingly, the April 12, 2005 reply was not proper. Moreover, the instant petition has only been signed by applicant Ellestad.

Petitioner may seek to revive the application under 37 CFR 1.137(a) or 37 CFR 1.137(b). Both petitions should include a copy of the reply filed April 12, 2005, this time signed by both applicants. Moreover, the petition must also be signed by both applicants.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l) - currently **$250** for a small entity; (3) a **showing** to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was **unavoidable**; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) - currently **$750** for a small entity; (3) A **statement** that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was **unintentional**. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set

forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

Enclosed for petitioner's convenience are forms for petitions to revive under 37 CFR 1.137(a) and 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
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

Enc: PTO/SB/61 (3 pages)
PTO/SB/64 (2 pages)
Privacy Act Statement (1 page)

PTO/SB/61 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First Named Inventor: Art Unit:

Application Number: Examiner:

Filed:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United Sates Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

(1) Petition fee.
(2) Reply and/or issue fee.
(3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity – fee $_____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $_____ (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of _____ (identify the type of reply):

☐ has been filed previously on _____ .

☐ is enclosed herewith.

B The issue fee of $ _____

☐ has been filed previously on _____ .

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). 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 8 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: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

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

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

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

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

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

Enclosure
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unavoidable delay
☐ _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

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

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature	Date
Typed or printed name	Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

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

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other:_____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

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

THOMAS A. BECK ESQ.
26 ROCKLEDGE LANE
NEW MILFORD CT 06776

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DEC 1 5 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Russell A. Budd et al. :
Application No. 10/675,139 :
Filed: September 30, 2003 :
Title of Invention: **SILICON BASED POTICAL VIAS** :

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

The petition is **GRANTED**.

This application became abandoned March 17, 2004, for failure to timely reply to the Notice to File Corrected Application Papers mailed on January 16, 2004, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained prior to the abandonment. Accordingly, a Notice of Abandonment was mailed November 12, 2004.

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

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

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

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

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

Receipt of the replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 is acknowledged.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

In re Application of	:	
Anish Goel et al	:	
Application No. 10/675,140	:	DECISION GRANTING PETITION
Filed: September 30, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 0492611-0482	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

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

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of November 29, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1754.

Karen Creasy

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

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OFFICE OF PETITIONS

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

In re Application of	:	
Goel, et al.	:	
Application No. 10/675,140	:	ON APPLICATION FOR
Filed: September 30, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 0492311-0482	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed September 10, 2009. Applicants submit that the patent term adjustment to be indicated on the patent is fifty-six (56) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the

initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

[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.

> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on July 11, 2007.

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

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance is zero (0) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On June 12, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. Applicants timely filed the instant application for patent term adjustment[2].

Applicants dispute the reduction to the patent term adjustment of 237 days entered pursuant to 37 CFR 1.704(b) for failure to respond to a notice purportedly mailed December 24, 2003. Specifically, applicants states that:

> The second delay with which Applicants take exception is the Applicant delay of 237 days shown extending from December 24, 2003 to November 16, 2004. There is no record of a Notice being mailed to Applicants on December 24, 2003, in the file history. The Notice was mailed November 17, 2004 to which Applicant timely responded. Applicants request that the delay of 237 days be cancelled for lack of bases in the prosecution history.

Excerpt taken from "Application for Patent Term Adjustment under 37 C.F.R. § 1.705(b)", filed September 10, 2009, p. 2.

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[2] The issue fee was paid on September 11, 2009. Accordingly, applicant timely filed the instant request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.704(b) prior to the payment of the fee set forth in 37 CFR 1.18(e).

Applicants' argument has been considered and is well taken. A review of the Image File Wrapper (IFW) history for this application does not reveal a notice as being mailed to applicants on December 24, 2003. Thus, in this instance, applicants did not fail to engage in reasonable efforts to conclude processing such that entry of a reduction to the patent term adjustment under 37 CFR 1.704(b) would be warranted. Accordingly, the period of reduction of 237 days is being removed.

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).

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Wednesday

PALM INTRANET

Date: 12/2/2009
Time: 14:08:56

PTA Calculations for Application: 10/675140			
Application Filing Date:	09/30/2003	PTO Delay (PTO):	318
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	693
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	237		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
106	12/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	237		
95	06/12/2009	MAIL NOTICE OF ALLOWANCE			
94	06/08/2009	ISSUE REVISION COMPLETED			
93	06/08/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
92	06/08/2009	CASE DOCKETED TO EXAMINER IN GAU			
87	06/06/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
86	06/06/2009	DOCUMENT VERIFICATION			
85	06/06/2009	NOTICE OF ALLOWABILITY			
84	04/24/2009	DATE FORWARDED TO EXAMINER			
83	04/03/2009	RESPONSE AFTER NON-FINAL ACTION			
82	03/05/2009	ELECTRONIC REVIEW			
81	03/05/2009	EMAIL NOTIFICATION			
80	03/05/2009	MAIL NON-FINAL REJECTION			
79	03/02/2009	NON-FINAL REJECTION			
78	12/22/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
77	12/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
76	12/30/2008	DATE FORWARDED TO EXAMINER			
75	12/22/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
74	12/30/2008	DATE FORWARDED TO EXAMINER			
73	12/22/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		62	63
72	12/30/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			

71	12/22/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
70	12/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
69	12/22/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
68	12/15/2008	EMAIL NOTIFICATION			
67	12/15/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
66	12/04/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
65	07/22/2008	ELECTRONIC REVIEW			
64	07/21/2008	EMAIL NOTIFICATION			
63	07/21/2008	MAIL FINAL REJECTION (PTOL - 326)			
62	07/16/2008	FINAL REJECTION			
61	04/11/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
60	05/09/2008	DATE FORWARDED TO EXAMINER			
59	04/11/2008	RESPONSE AFTER NON-FINAL ACTION		91	55
58	04/11/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
57	04/11/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
56	04/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	10/11/2007	MAIL NON-FINAL REJECTION			
54	10/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
53	09/27/2007	NON-FINAL REJECTION			
52	07/18/2007	DATE FORWARDED TO EXAMINER			
51	07/11/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
50	07/18/2007	DATE FORWARDED TO EXAMINER			
49	07/11/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		90	43
48	07/18/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
47	07/11/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
46	07/11/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	07/11/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
43	01/12/2007	MAIL FINAL REJECTION (PTOL - 326)			

42	01/08/2007	FINAL REJECTION			
41	11/10/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	11/10/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	11/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
38	11/03/2006	DATE FORWARDED TO EXAMINER			
37	09/29/2006	RESPONSE AFTER NON-FINAL ACTION		213	33
36	09/29/2006	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
35	06/08/2006	PETITION ENTERED			
34	06/08/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	11/29/2005	MAIL NON-FINAL REJECTION			
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31.7	11/10/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	29
31	11/10/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	11/17/2005	DATE FORWARDED TO EXAMINER			
29	11/10/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
28	10/14/2005	MAIL RESTRICTION REQUIREMENT	318		-1
27	10/13/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
26	10/06/2005	CORRESPONDENCE ADDRESS CHANGE			
25	09/19/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
24.7	11/10/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	11/10/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	09/19/2005	CASE DOCKETED TO EXAMINER IN GAU			
22	01/14/2005	MISCELLANEOUS INCOMING LETTER			
21	02/14/2005	CORRESPONDENCE ADDRESS CHANGE			
20	01/21/2005	APPLICATION RETURN FROM OIPE			
19	01/21/2005	APPLICATION IS NOW COMPLETE			
18	01/21/2005	APPLICATION RETURN TO OIPE			
17	01/21/2005	APPLICATION RETURN FROM OIPE			
16	01/21/2005	APPLICATION RETURN TO OIPE			
15	01/21/2005	APPLICATION DISPATCHED FROM OIPE			
14	01/21/2005	APPLICATION IS NOW COMPLETE			

13	01/07/2005	ADDITIONAL APPLICATION FILING FEES			
12	01/07/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
11	11/17/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
9	12/24/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
8	11/16/2004	ADDITIONAL APPLICATION FILING FEES		237	6
7	11/16/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	12/24/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	12/13/2003	CASE CLASSIFIED BY OIPE			
3	12/13/2003	CLEARED BY OIPE CSR			
2	12/02/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/30/2003	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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OFFICE OF PETITIONS

In re Application of	:	
Goel et al.	:	DECISION ON PETITION
Application No. 10/675,140	:	TO WITHDRAW
Filed: September 30, 2003	:	FROM RECORD
Attorney Docket No. 0492611-0482	:	

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 6, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which 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 replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Charles E. Lyon on behalf of all attorneys of record who are associated with customer No. 24280.

All attorneys/agents associated with the Customer Number 24280 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

On January 5, 2010, the above-identified application issued as Patent No. 7,641,882.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

Mail Date: 07/13/2010

Applicant	: Anish Goel	: DECISION ON REQUEST FOR
Patent Number	: 7641882	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/675,140	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **145** 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.

Serial # 10/675,150
A.U. 1744
Examiner Chin
9-29-03

Commissioner of Patents and Trademarks
P.O. Box 1450
Washington, DC 22313-1450

Ping Tzu Chang
2828 Via Pacheco
Palos Verdes Estates, CA.
90274
September 2, 2003

Dear Sir;
I respectfully request your office to make the petition for my utility patent application "special" due my age. Attached is a photocopy of my passport stating my birth date, January 10, 1936.

Respectfully,
Ping Tzu Chang
Ping Tzu Chang

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700

NOV 16 2006

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Commissioner for Patents
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STEPHEN C. KAUFMAN
INTELLECTUAL PROPERTY LAW DEPT.
IBM CORPORATION
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

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DEC 03 2007

OFFICE OF PETITIONS

In re Application of :
Einat Amitay et al :
Application No. 10/675,155 : ON PETITION
Filed: September 30, 2003 :
Attorney Docket No. IL920030030US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 13, 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 November 17, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 18, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790 and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2876 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

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NOV 28 2005

Technology Center 2100

In re Application of: BRAUN, et al.
Application No. 10/675,159
Filed: September 29, 2003
For: REMOTE MANAGEMENT UTILITY

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

This is a response to the petition filed 22 September 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 22 September 2005 fails to adequately meet requirement (e) of the criteria set forth above. The detailed discussion of the references is not sufficient; it merely reproduces the abstracts. The discussion of the references should be detailed and should point to specific sections of the references (e.g., column and line number). Also, the petition fails to point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. Five of the seven independent claims are not even discussed. 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.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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INTELLECTUAL PROPERTY LAW DEPARTMENT
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Brian G. Goodman et al :
Application No. 10/675,160 : ON PETITION
Filed: September 29, 2003 :
Attorney Docket No. :
TUC920030085US1

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit drawings on or before October 12, 2006 in reply to the Notice of Allowability, mailed July 12, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on October 15, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of drawings, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of July 12, 2006 is accepted as being unintentionally delayed.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

Mail Date: 04/20/2010

Applicant	: Julian Mitchell	: DECISION ON REQUEST FOR
Patent Number	: 7593388	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/675,162	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1257** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Vardaraj, et al.	:	
Application No. 10/675,169	:	DECISION ON PETITION
Filed: September 30, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. P2002J108 US2	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 2, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The

relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. If the benefit of more than one nonprovisional application is claimed, then the relationship between each application (i.e., continuation, divisional, or continuation-in-part) must be specified in order to establish copendency throughout the entire chain of prior-filed applications. For example, a statement that "this application claims the benefit of Application Nos. C, B, and A" or "this application is a continuing application of Application Nos. C, B, and A" is improper. Applicant instead must state, for example, "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which is a continuation of Application No. A, filed ---." See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application.

The amendment filed June 2, 2006 is unacceptable because it contains unclear references and recites the nonprovisional applications in reverse order. The most recently filed nonprovisional application (No. 10/412,190) is listed last and the earliest filed nonprovisional application (No. 09/312,728) is listed first. The nonprovisional applications should be listed in order from the most recently filed to the earliest filed. The relationships in the chain of applications should be clearly stated.

37 CFR § 1.78(a)(3) requires 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. A proper claim has not been filed. Since the statement contained in the petition varies from the language required by 37 CFR 1.78(a)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(3). If this is not a correct interpretation, petitioner should promptly notify the Office.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment or an Application Data Sheet (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) which state the relationships between each application in the chain (in proper order) 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 Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
Vardaraj, et al.	:	
Application No. 10/675,169	:	DECISION ON PETITION
Filed: September 30, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. P2002J108 US2	:	

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed August 14, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

All 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 the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1714 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.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: 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
10/675,169	09/30/2003	1714	750	RV-0318	2	15	3

CONFIRMATION NO. 5906

CORRECTED FILING RECEIPT

OC000000020819578

ExxonMobil Research and Engineering Company
P.O. Box 900
Annandale, NJ 08801-0900

Date Mailed: 10/13/2006

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)

Ramesh Varadaraj, Flemington, NJ;
Paul J. Berlowitz, Glen Gardner, NJ;

Power of Attorney:

Estelle Bakun--35054
Ramesh Varadaraj--48010

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/435,044 12/20/2002
and is a CIP of 10/412,190 04/11/2003
which is a CON of 09/791,996 02/23/2001 ABN
which is a CON of 09/312,728 05/14/1999 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 01/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/675,169

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Complex oil-in-water-in-oil (O/W/O) emulsion compositions for fuel cell reformer start-up

Preliminary Class

044

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).

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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 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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Infineum USA, L.P.
Law Department
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MAR 06 2009

OFFICE OF PETITIONS

In re Application of Rinaldo Caprotti, et. al. Application No. 10/675,171 Filed: September 30, 2003 Attorney Docket No. 2002M013	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 2009, to revive the above-identified application.

The application became abandoned for failure to timely file an appeal brief and fee within two (2) months of the Notice of Appeal filed on March 14, 2008. A Notice of abandonment was mailed November 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief with the $540 fee; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1797 for further processing in accordance with this decision.

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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CHAPIN & HUANG L.L.C.
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE
WESTBOROUGH MA 01581

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OFFICE OF PETITIONS

In re Application of
SHEEHY et al.
Application No. 10/675,205
Filed: 09/30/2003
Attorney Docket No. EMC03-16(03086)

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 30, 2006, 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 August 7, 2006, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on November 8, 2006. A Notice of Abandonment was mailed on December 15, 2006.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Kameron W. Maxwell	: DECISION ON REQUEST FOR
Patent Number	: 7625928	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/675,225	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1081** 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

HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS, SUITE 1400
LOS ANGELES CA 90067

In re Application of	:	
NISHIZAWA, et al.	:	
Application No. 10/675,230	:	DECISION GRANTING PETITION
Filed: September 29, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **81864.0024**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 20, 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 July 5, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1742 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Creasy

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 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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90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

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OFFICE OF PETITIONS

In re Application of	:	
Reihl et al.	:	
Application No. 10/675,235	:	ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. 73715-391389	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 22, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2100 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries 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

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DALE F. REGELMAN
QUARLES & BRADY, LLP
ONE SOUTH CHURCH AVENUE, STE. 1700
TUCSON AZ 85701-1621

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OFFICE OF PETITIONS

In re Application of	:	
William F. Micka, et. al.	:	
Application No. 10/675,289	:	DECISION ON PETITION
Filed: September 29, 2003	:	
Attorney Docket No. TUC920030045US1	:	

This is a decision on the petitions under the unintentional provisions of 37 CFR 1.137(b), filed November 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Non-Final Office Action mailed, August 15, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on November 16, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2167 for appropriate action by the Examiner in the normal course of business on the reply received.

Christopher Bottorff
Petitions Examiner
Office of Petitions

PET/DEC

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MAR 15 2004

VP
PAPER NO. ___

In re Application of
Robert A. Horton et al.
Serial Number: 10/675292
Filed: September 30, 2003
For: PATTERN MATERIAL

PETITION UNDER
M.P.E.P.708.02 IV

This is in response to the petition filed September 30, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Pearne & Gordan LLP
Ohio Savings Plaza
1801 East 9th Street, Ste. 1200
Cleveland, OH 44114-3108

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OFFICE OF PETITIONS

In re Application of David Todjar Hengami Application No. 10/675,318 Filed: September 29, 2003 Attorney Docket Number: HENG-67322 Title: CONVENIENT SOLID PRODUCT DISPENSING PACKAGE	DECISION ON PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed January 17, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 29, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 30, 2005. A notice of abandonment was mailed January 18, 2006.

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1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

1. The reply required to the outstanding Office action or notice, unless previously filed;
2. The petition fee as set forth in § 1.17(m);
3. A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
4. Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With the present petition, Petitioner has filed the petition fee and has made the proper statement of unintentional delay. As such, Petitioner has met requirements (2) and (3) of 37 C.F.R. §1.137(b). A terminal disclaimer is not required.

Regarding the first requirement, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed[2]. In order for this application to be revived, petitioner must submit a reply which satisfies 37 C.F.R. §1.137(b)(1) (i.e., an amendment, a request for reconsideration, or the filing of a continuing application).

Petitioner has submitted a three-month extension of time, however this cannot constitute the required reply, as had it been timely filed, it would not have been sufficient to have avoided the abandonment. See MPEP §711.03(c)(II)(A)(2)(a).

Petitioner will further 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 for reply[3]. This extension of time cannot be accepted, and as such, will be refunded to Petitioner's Deposit Account in due course.

As such, 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. 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski and may be submitted by mail[4], hand-delivery[5], or facsimile[6].

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2 See M.P.E.P. 711.03(c).

3 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).
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.

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 that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[7]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

Paul Shanoski

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

cc: LAUSON,ROBERT
c/o Lauson & Associates
1334 Parkview Avenue
Suite 100
Manhattan Beach, CA 90266

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7 See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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OFFICE OF PETITIONS

In re Application of :
David Todjar Hengami :
Application No. 10/675,318 :
Filed: September 29, 2003 :
Attorney Docket Number: HENG-67322 :
Title: CONVENIENT SOLID PRODUCT DISPENSING PACKAGE :

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the renewed petition filed May 15, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 29, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 30, 2005. A notice of abandonment was mailed January 18, 2006.

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1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

1. The reply required to the outstanding Office action or notice, unless previously filed;
2. The petition fee as set forth in § 1.17(m);
3. A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
4. Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The original petition was submitted on January 17, 2006, and was dismissed via the mailing of a decision on May 2, 2006 for failure to submit the required reply.

With this renewed petition, Petitioner has indicated that application number 11/321,283 was filed on December 27, 2005, and is a continuation-in-part of the present application.

As such, this renewed petition under 37 C.F.R. §1.137(b) is **GRANTED**.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuing application number 11/321,283.

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

Paul Shanoski

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

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ATTN: John J. Oskorep
One Magnificent Mile Center
Suite 1400
980 N. Michigan Avenue
Chicago IL 60611

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OFFICE OF PETITIONS

In re Application of Gillis et al. Patent No. 6,831,802 Application Number: 10/675,357 Issue Date :December 14, 2004 Filing Date: September 30, 2003 Attorney Docket Number: HSJ9-2003-0117US3	: : : : : : : :	DECISION ON PETITION

This is a decision on the petition for certificate of correction under 37 CFR 1.323 filed on March 14, 2005. The petition is properly treated under 37 CFR 3.81 (b) to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **Dismissed**.

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

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 request before a patent is issued. See 69 Fed. Reg. 29865 (May 26, 2004).

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(l)

Petitioner has failed to submit (C), the $100.00 certificate of correction fee pursuant to 37 CFR 1.20 (a). The petition does not authorize charging of the deposit account for the certificate of correction fee.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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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Pitney Bowes Inc.
Intellectual Property and Technology Law Dept.
35 Waterview Drive
P.O. Box 3000
Shelton, CT 06484

Mail Date: 04/21/2010

Applicant	: Paul Mayer	: DECISION ON REQUEST FOR
Patent Number	: 7596532	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/675,368	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1853** 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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TMR, H3P 3H4
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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Harold Fisher :
Application No. 10/675,383 :
Filed: September 30, 2003 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 9, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two months extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is December 10, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a 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.

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 Thurman K. Page at (571) 272-0602.

This application is being referred to Technology Center Art Unit 3772 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.

for David Bucci
Petitions Examiner
Office of Petitions

cc: Louis Tessier
P.O. Box 54029
TMR, QC, H3P 3H4, Canada

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500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Jeyhan Karaoguz	: DECISION ON REQUEST FOR
Patent Number	: 7593530	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/675,386	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1088** 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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WILLIAM R. MCCLELLAN
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BOSTON, MA 02210

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OFFICE OF PETITIONS

In re Application of	:	
HARLES, Guy	:	
Application No. 10/675,408	:	DECISION GRANTING PETITION
Filed: September 29, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **H0659.70012US00**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 30, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 10, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2863 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06-17-06

TO SPE OF : ART UNIT 3662

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/675422** Patent No.: **6970132**

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

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

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

A Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

Thomas M Tarcza
SPE

3662
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

Davis Law Group, P.C.
6836 Bee Caves Road
Suite 220
Austin, TX 78746

COPY MAILED

SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Allen Bruce Goodrich	:	
Application No. 10/675,432	:	DECISION ON PETITION
Filed: September 30, 2003	:	TO WITHDRAW
Attorney Docket No. 1001.29	:	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 21, 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 Michael A. Davis, Jr. on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed August 10, 2007 that requires a reply from the applicant.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Allen Bruce Goodrich**
13 Macabi, Apt. 8
Tel Aviv, Israel

cc: **David Dolezal**
Freescale Semiconductor, Inc.
7700 West Parmer Lane
Austin, TX 78729

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
10/675,432	09/30/2003	Allen Bruce Goodrich	1001.29

CONFIRMATION NO. 6197

OC000000025973914

53953
DAVIS LAW GROUP, P.C.
6836 BEE CAVES ROAD
SUITE 220
AUSTIN, TX 78746

Date Mailed: 09/24/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/21/2007.

- 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.

Terri Williams

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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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

Mail Date: 04/20/2010

Applicant	: Ryan N. Andrews	: DECISION ON REQUEST FOR
Patent Number	: 7624063	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/675,449	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1599** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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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MAY 11 2004

JOHN C. HUGHS
SUITE B-205
440 N VOLLARD STREET
KENNEWICK WA 99336

In re Application of	:
Joseph W. Harding et al	:
Serial No.: 10/675.470	: PETITION TO MAKE SPECIAL
Filed: September 30, 2003	:
Attorney Docket No.:	:

This is in response to applicants' petition filed January 29, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JOHN C. HUGHS
PATENT ATTORNEY
440 N. VOLLAND ST., B205
KENNEWICK, WA 99336

COPY MAILED
JUN 22 2005
OFFICE OF PETITIONS

In re Application of	:	
Joseph W. Harding, et al.	:	
Application No. 10/675,470	:	ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. None	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on June 17, 2005, to revive the above-identified 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). This is also a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee filed simultaneously. See 1233 *Official Gazette* 54 (April 11, 2000).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Stephen J. Rosenman, Ph.D. appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Rosenman desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record.

The petitions are **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 5, 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 petition has been found to be in compliance with 37 CFR 1.137(b).

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 9, 2005 accompanies this decision on petition.

Since petitioner has complied with 37 CFR 1.137(b), the application may be returned to a pending status. However, in view of petitioner's request to withdraw the application from issue, the application is hereby 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 22, 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 2182 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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc: Stephen J. Rosenman, Ph.D.
SEED Intellectual Property Law Group PLLC
701 Fifth Avenue, Suite 6300
Seattle, WA 98104-7092

[1]The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

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FROM DIRECTORS OFFICE

FEB 1 0 2006

TECHNOLOGY CENTER 3600

Randy J. Pritzker
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210

In re Application of
Anthony J. Guonalis
Application No. 10/675,541
Filed: September 30, 2003
For: SYSTEM AND METHOD FOR DETECTING EMITTERS SIGNALS HAVING MULTI-VALUED ILLUMINATION TIMES

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on August 12, 2005. There is no fee for this petition.

The petition is **DISMISSED.**

A review of the file record reveals that the application became abandoned for failure to respond to the Office letter (Notice of Informal or Non-Responsive Amendment) mailed to applicant on December 10, 2004, setting a one-month extendable response period. A Notice of Abandonment was mailed on July 12, 2005 stating that no reply had been received. Applicant contends that the December 10, 2004 Office letter was not received.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date at and around January 10, 2005**. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

Applicant's petition indicates that a search of the docket and mail receipt records confirms that the December 10, 2004 Office letter was never received. In support thereof applicant has provided a copy of "the docket record". The evidence provided is not considered a docket record but rather a log of incoming U.S.P.T.O. mail.

The petitioner has failed to comply with requirements (2) and (3) indicated above. In regards to requirement (2), Applicant has only set forth that a search of the docket records indicates that the Office communication was not received. A further statement that a search of the file jacket indicates that the Office communication was not received is also required. In regards to requirement (3), a complete docket record with a copy of the list of all responses in the practitioner's office with the **due date at and around January 10, 2005 is required** as a shortened statutory response period of one-month was set in the Office letter mailed December 10, 2004.

Petitioner's evidence of non-receipt of the Office action mailed December 10, 2004 is insufficient to withdraw the holding of abandonment, and the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

KJD/rjc 10/14/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 03-06

Paper No:__

RANDY J. PRITZKER
WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210

COPY MAILED
APR 0 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Gounalis	:	DECISION
Application No. 10/675,541	:	
Filing Date:30 September, 2003	:	
Attorney Docket No.: L0562.70036US00	:	

This is a revised decision on the petition filed on 3 March, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181–the petition was only received in the Office of Petitions as of this writing.

NOTE: Docketing of Status Inquiries at three- (3-) month intervals following the filing of papers/replies may be prudent practice to demonstrate diligence when lengthy delays occur in matters such as this.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- it appeared that Petitioner failed to reply timely and properly to the non-final Office action mailed on 30 August, 2004, with reply due absent and extension of time on or before 30 November, 2004;

- it further appears that Petitioner filed on 3 December, 2004, over a 30 November, 2004, certificate of mailing, an amendment;
- there is a suggestion in the record that a Notice of Informal/Non-Responsive Amendment was mailed on 10 December, 2004, with reply due absent extension of time on or before 10 January, 2005;
- Petitioner filed no reply to the 10 December, 2004, Notice;
- the application went abandoned after midnight 10 January, 2005;
- Petitioner filed a Status Inquiry, to which the Office did not directly respond, on 20 June, 2005;
- the Office mailed the Notice of Abandonment on 12 July, 2005;
- on 12 August, 2005, Petitioner filed the original petition with the allegation that his office had not received the 10 December, 2004, Notice, however, the petition was dismissed on 10 February, 2006, for failure to (a) state that Petitioner had searched the file jacket and found no such document and (b) submit copies of docket records;
- Petitioner has responded to each of those two deficiencies.

It is noted that a review at this writing of the record does not reveal a copy of the 10 December, 2005, Notice. Further, an inquiry to the Examiner and Special Programs Examiner in this regard has produced no response as of this writing.

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

---

[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.

Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

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]

It appears that Petitioner has satisfied the requirements of the regulation and the case law as discussed above.

CONCLUSION

Because Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**, fees are waived and none have been charged; and the Notice of Abandonment of 12 July, 2005, hereby is **vacated**.

---

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

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

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

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

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

The instant matter is released to Technology Center 3600 to remail the Notice of Informal/Non-Responsive Amendment 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10-23-07

Paper No.: _____

TO SPE OF : **Technology Center** 2821

10/675563

SUBJECT : Request for Certificate of Correction on Patent No.: 7212499 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.

Thank You For Your Assistance

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

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 changes to claim 1 are denied because there are no errors in the claim. Moreover, the proposed change would result in a change of scope that would require additional search and consideration

Doug K. Owen — **SPE**

2821 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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12/06/07

Patent No. : 7212499 B2
Ser. No. : 10/675563
Inventor(s) : Hoffmann et al.
Issued : May 1, 2007
Title : **METHOD AND APPARATUS FOR ANTENNA STEERING FOR WLAN**
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.

Proposed changes to claim 1 are denied because there are no errors in the claim. Moreover, the proposed change would result in a change of scope that would require additional search and consideration.

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

A certificate of correction will issue for the remaining error noted in your request.

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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

November 6, 2008

Robert D. Leonard
Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

Patent No: 7212499 B2
Application No: 10/675563
Applicant: John E. Hoffmann, et al.
Issued: May 1, 2007
Title: **METHOD AND APPARATUS FOR ANTENNA STEERING FOR WLAN**

Request for Certificate of Correction:

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

The alleged errors in column 9 line 67 and column 10, lines 1 & 2, are in fact changes made in an Examiner's Amendment at time of allowance. Since applicant file no objection prior to payment of the base issue fee, no correction is in order here under Rule 1.322/1.323.

Per the examiner "*Proposed changes to claim 1 are denied because there are no errors in the claim. Moreover, the proposed changes would result in a change of the scope that would require additional search and consideration.*"

In view of the foregoing your request in this matter is hereby **denied**.

Virginia Tolbert
For Mary F. Diggs, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

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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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/20/2010

Applicant	: Hassan Serhan	: DECISION ON REQUEST FOR
Patent Number	: 7655010	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/675,580	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **537** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAY 1 2 2004

OFFICE OF PETITIONS

In re Application of :
John E. Hoffmann, George :
Rodney Nelson, Jr., John A. : DECISION GRANTING PETITION
Regnier and Kevin P. Johnson : UNDER 37 CFR 1.47(a)
Application No. 10/675,583 :
Filed: September 30, 2003
Title: DIRECTIONAL ANTENNA PHYSICAL LAYER STEERING FOR WLAN

This is in response to the "Petition Under 37 CFR 1.47(a)," filed March 18, 2004.

The petition is **granted**.

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

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

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

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

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

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MAY 1 2 2004

OFFICE OF PETITIONS

GEORGE RODNEY NELSON, JR.
207 SYKES LOOP DRIVE
MERRITT ISLAND, FLORIDA 32953

In re Application of
John E. Hoffmann, George Rodney Nelson, Jr., John A. Regnier and Kevin P. Johnson
Application No. 10/675,583
Filed: September 30, 2003
For: DIRECTIONAL ANTENNA PHYSICAL LAYER STEERING FOR WLAN

Dear GEORGE RODNEY NELSON, JR.:

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

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

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

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

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

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

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FEB 03 2009

OFFICE OF PETITIONS

In re Application of	:	
Kerry Sellen et al.	:	
Application No. 10/675,590	:	DECISION ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. 020375-047100US	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 17, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

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

This application is being referred to Technology Center AU 2887 for appropriate action by the Examiner in the normal course of business on the reply received and the terminal disclaimer.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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DAVIS LAW GROUP, P.C.
6836 BEE CAVES ROAD
SUITE 220
AUSTIN TX 78746

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NOV 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Gil Naveh	:	
Application No. 10/675,640	:	DECISION ON PETITION
Filed: September 30, 2003	:	TO WITHDRAW
Attorney Docket No. 1001.27	:	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, 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 Michael A. Davis, Jr. on behalf of all attorneys of record who are associated with customer No. 53953.

All attorneys/agents associated with the Customer Number 53953 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 assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: STARCORE, LLC
8303 MOPAC EXPRESSWAY
SUITE A400
AUSTIN, TX 78759

cc: DAVID DOLEZAL
FREESCALE SEMICONDUCTOR, INC.
7700 WEST PARMER LANCE
AUSTIN, TX 78729

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/675,640	09/30/2003	Gil Naveh	1001.27

CONFIRMATION NO. 6078

POWER OF ATTORNEY NOTICE

53953
DAVIS LAW GROUP, P.C.
6836 BEE CAVES ROAD
SUITE 220
AUSTIN, TX 78746

OC000000026603647

Date Mailed: 11/05/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/20/2007.

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

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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LEGAL DEPARTMENT
TERADYNE, INC.
321 HARRISON AVENUE
BOSTON MA 02118

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Thomas S. Cohen et al	:	
Application No. 10/675,647	:	ON PETITION
Filed: September 3, 2003	:	
Attorney Docket No. 1811-US	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 30, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 31, 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

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OFFICE OF PETITIONS

In re Application of	:
Thomas S. Cohen et al	:
Application No. 10/675,647	: DECISION GRANTING PETITION
Filed: September 3, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1811-US	:

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

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

This matter is being referred to Technology Center AU 2833 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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

Mail Date: 04/21/2010

Applicant	: Jeyhan Karaoguz	: DECISION ON REQUEST FOR
Patent Number	: 7584359	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/675,652	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1200** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 05/18/2010

Applicant : Jeyhan Karaoguz
Patent Number : 7584359
Issue Date : 09/01/2009
Application No : 10/675,652
Filed : 09/30/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1248** 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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Paper No.

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of John Andrew Dankovich et al. Application No. 10/675,670 Filed: September 30, 2003 Attorney Docket No.: AUS920030647US1 Title: HETEROGENOUS DOMAIN-BASED ROUTING MECHANISM FOR USER AUTHENTICATION	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.181

This is a decision on the petition filed February 20, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

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 July 26, 2007, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no responses were received. Accordingly, the above-identified application became abandoned on October 27, 2007.

RELEVANT PORTION OF THE M.P.E.P.

M.P.E.P. § 711.03(c) sets forth, *in pertinent part*:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement (emphasis added). For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

ANALYSIS

Regarding the search, Petitioner has set forth that both the file jacket and the docket records have been searched. This statement is being construed to mean that Petitioner personally conducted this search, and as such, is in possession of firsthand knowledge of the facts to which he has set forth.

Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has alleged that the mailing was not received, has set forth that he has searched both the file jacket and the docket records, and has included copies of the latter.

CONCLUSION

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

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

The Notice of Appeal filed concurrently with this petition on February 20, 2008, has been entered and made of record. Accordingly, **the two-month period for filing the Appeal Brief accompanied by the fee required by law, runs from the mailing date of this decision.**

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 present application can receive further processing in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

ATTN: John J. Oskorep
One Magnificent Mile Center
Suite 1400
980 N. Michigan Avenue
Chicago IL 60611

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MAY 24 2006

OFFICE OF PETITIONS

In re Application of Donald Ray Gillis et al. Application No. 10/675,696 In re Patent No. 6,822,819 Filing Date: September 30, 2003 Issue Date: November 23, 2004 Attorney Docket Number: HSJ9-2003-0117US2 Title: METHODS AND APPARATUS FOR THERMALLY BONDING LUBRICANT TO A DISK SURFACE WITH USE OF A HEATING ELEMENT FORMED IN A MAGNETIC HEAD	DECISION ON PETITION UNDER 37 C.F.R. §3.81(B)

This is a decision on the petition filed March 14, 2005 under 37 C.F.R. §1.183, which is properly treated as a petition under 37 C.F.R. §3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

The Office regrets the period of delay in issuing this decision.

Petitioner requests that a Certificate of Correction be issued correcting the address for an assignee. Petitioner submits a "Certificate of Correction" for this purpose, which indicates that the address of the Assignee which appears on the face of the patent should be changed.

1 See Official Gazette, June 22, 2004.

37 C.F.R §3.81(b), effective June 25, 2004, reads:

> (b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11 before issuance of the patent, and must include a request for a certificate of correction under 1.323 of this chapter (accompanied by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Both Petitioner's evidence and Office records show that the assignment for the above-identified application was received in the Office on February 3, 2004, which is prior to the payment of the Issue Fee on October 15, 2004.

Payment of the required $130 processing fee has been submitted. However, the required $100 certificate of correction fee has not been received, and it does not appear that Petitioner has provided authorization to charge any deficiency to a Deposit Account.

As such, the present petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision, and should include the deficient payment. Extensions of time under 37 C.F.R. §1.136(a) are permitted.

The renewed petition should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §3.81(b)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

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

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

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Commissioner for Patents
United States Patent and Trademark Office
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In re Patent No. 6997644
Issue Date: February 14,2006
Application No. 10675709
Filed: September 29,2003
Attorney Docket No. HFD 001A

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

This is a decision on the electronic petition, filed July 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 July 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)
6997644	2006-02-14	10675709	2003-09-29	HFD 001

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

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/garyccohn/	Date (YYYY-MM-DD)	2010-07-08
Name	Gary C Cohn	Registration Number	30456

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

DEVON A. ROLF
GARMIN LTD.
1200 EAST 151ST STREET
OLATHE, KS 66062

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OFFICE OF PETITIONS

In re Application of	:	
Straub et al.	:	
Application No. 10/675,711	:	ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. 702.253	:	

This is a decision on the petition under 37 CFR 1.137(a), filed November 3, 2005, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

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

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

The above-identified application was deemed abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed May 20, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application was deemed abandoned as of August 21, 2005. A Notice of Abandonment was mailed on October 26, 2005.

Petitioner has provided a showing in compliance with 37 CFR 1.8(b) establishing the issue fee transmittal sheet was sent to the Office via facsimile telephone number 703-746-4000 on June 28, 2005.

Effective December 1, 2003, the Office required all patent application related correspondence transmitted by facsimile to be directed to a central facsimile number, (703) 872-9306, with a few exceptions.[1] One of the exceptions was the transmission of issue fees. The facsimile number for issue fee and publication fee payments was 703-746-4000.

On July 12, 2005, the Office issued an updated list of facsimile transmission numbers.[2] The new Notice did not change the facsimile number for issue fee payments.

The facsimile number for issue fee payments was changed to 571-273-2885 by an updated list of facsimile numbers published in the Official Gazetted on October 18, 2005.[3]

---

[1] Centralized Delivery and Facsimile Transmission Requirements for Patent Application Related Correspondence, 1275 Off. Gaz. Pat. Office 200 (Oct. 28, 2003).

[2] New Patents Central FAX Number and Updated Lists of Exceptions to the Centralized Delivery and Facsimile Transmission Policy for Patent Related Correspondence (signed June 20, 2005) 1296 OG 76 (July 12, 2005).

[3] Updated Lists of Exceptions to the Centralized Delivery and Facsimile Transmission Policy for Patent Related Correspondence (signed Sep 19, 2005) 1299 OG 98 (October 18, 2005).

Petitioner has established the issue fee was timely and properly submitted.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, the petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee will be credited back to petitioner's deposit account.

The Office of Publications will be informed of the instant decision so that steps can be taken to issue the application as a patent.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

ALEXABDER M. GERASIMOW
ALLEN-BRADLEY COMPANY, LLC
1201 SOUTH SECOND STREET
MILWAUKEE, WI 53204-2496

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SEP 1 8 2006

Director's Office
Office of Patent Publication

In re Application of
EL-IBIARY, YEHIA
Application No. 10/675,723
Filed: September 30, 2003
Attorney Docket No. 03RE019

DECISION ON PETITION

This is a decision on the Petition Under 37 C.F.R.§ 1.181(a) To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark Office (USPTO) on August 16, 2006.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due, mailed December 20, 2005. The Notice of Abandonment, mailed on June 14, 2006 indicates, "The submitted fee of $0 is insufficient. A balance of $1,700 is due."

Petitioner states that the Patent Office received and deposited a check to replenish the Assignee's deposit account, but failed to timely credit the proper deposit account. Also, that the Deposit Account Division corrected the error after notification by the Assignee.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on February 27, 2006, authorizing that the Issue Fee and Publication Fee be charged to Deposit Account No. 01-0857. On July 1, 2005, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fees.

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

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

Investigation by the Office of Finance reveals that the replenishment check in the amount of $37,780.00 was posted on February 23, 2006 to Deposit Account No. 18-1750, one of the two deposit accounts.

Since, it appears an account number was not cited on the replenishment check and in the absence of any specific instruction, the Finance operator made the determination to deposit the money into Deposit Account No.18-1750. As result thereof, Deposit Account No. 01-0857 did not have a sufficient balance to charge the required fees.

Therefore, in light of the lack of a specific identification of the account to be replenished and non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

The replenishment amount was later transferred from Deposit Account No.18-1750 to 01-0857.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

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

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 137.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Director's Office
Office of Patent Publication

ALEXABDER M. GERASIMOW
ALLEN-BRADLEY COMPANY, LLC
1201 SOUTH SECOND STREET
MILWAUKEE, WI 53204-2496

In re Application of	:	
EL-IBIARY, YEHIA	:	
Application No. 10/675,723	:	**DECISION ON PETITION**
Filed: September 30, 2003	:	
Attorney Docket No. 03RE019	:	

This is a decision on the Petition Under 37 C.F.R.§ 1.181(a) To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark Office (USPTO) on August 16, 2006.

The petition is **GRANTED**.

Further investigation reveals that the replenishment check from Rockwell Automation did in fact have the attached check stub listing the Deposit Account No. 01-0857. The account number was overlooked by the accounting technician and inadvertently credited to another Deposit Account. After the Deposit Account Branch was notified of this on February 28, 2006 the funds were transferred to the correct account.

Since, the replenishment check was received on February 22, 2006, prior to the date—February 28, 2006––the Office of Finance attempted to charge the fees and if proper processed, the Deposit Account would have had sufficient funds to charge the required fees, the Decision On Petition mailed September 18, 2006, which dismissed the applicant's petition filed on August 16, 2006, is hereby **VACATED.**

The USPTO apologizes for any inconvenience to the applicant.

As authorized, the Issue Fee in the amount of $1,400 and $300 for the Publication Fee will be charged to Deposit Account. No. 01-0857.

The application will be processed into a patent.

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 137.

Thomas E. Hawkins

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

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

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MAR 26 2008

OFFICE OF PETITIONS

In re Application of :
Brian C. Atkins :
Application No. 10/675,724 :
Filed: September 30, 2003 :
Attorney Docket No. 200308888-1 :

ON PETITION

This is a decision in response to the petition, filed November 29, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed April 9, 2007. A Notice of Abandonment was mailed on November 14, 2007. On November 29, 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 amendment; (2) the petition fee of $1,500.00; and (3) the requisite statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Edouard Garcia 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.

The application is being referred to Technology Center AU 2173 for consideration of the amendment filed November 29, 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

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/675,727	09/30/2003	2121	942	E20020400	7	13	5

CONFIRMATION NO. 7787

CORRECTED FILING RECEIPT

OC000000011774853

Michael M. Rickin, Esq.
ABB Inc.
Legal Department - 4U6
29801 Euclid Avenue
Wickliffe, OH 44092-2530

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)

Ramasamy Selvaraj, Solon, OH;
Xiangming Hua, Willoughby, OH;
Todd Hess, Chagrin Falls, OH;

Assignment For Published Patent Application

ABB Inc.;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/24/2003

Projected Publication Date: 03/31/2005

Non-Publication Request: No

Early Publication Request: No

Title

Model-centric method and apparatus for dynamic simulation, estimation and optimization

Preliminary Class
700

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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Alexandria, VA 22313-1450
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JJGJr.: 07-07

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OFFICE OF PETITIONS

ATTN: JOHN J. OSKOREP
ONE MAGNIFICENT MILE CENTER
980 N. MICHIGAN AVENUE, SUITE 1400
CHICAGO IL 60611

In re Patent No. 6,954,327	:	
Issued: 11 October, 2005	:	
Application No. 10/675,734	:	DECISION
Filed: 30 September, 2003	:	
Attorney Docket No.: 5605-A-1	:	

This is a decision on the petition (with fees) filed on 23 February, 2006, under 37 C.F.R. §1.183 (to waive the provisions of 37 C.F.R. §3.81 and correct the Assignee under 37 C.F.R. §1.323) to obtain a certificate of correction setting forth the assignee.

Petitioner avers and the record reflects that the Issue Fee transmittal was submitted with an incorrect specification of the assignee.

The Office regrets the delay in addressing this matter, however, the petition was received by the attorneys in the Office of Petitions only at this writing.

Monitoring of the status of applications on Private PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Status inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention.

The petition(s) under 37 C.F.R. §1.183 (for waiver of §3.81) and §1.323 are **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.183 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. §1.183";

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

Background

Petitioner avers and the record reflects that Petitioner incorrectly set forth the assignee at the payment of the Issue Fee as Hitachi Global Storage Technologies B.V., rather than Hitachi Global Storage Technologies Netherlands B.V., and that at the time of issue, the assignment records previously submitted by Petitioner indicated the assignee as Hitachi Global Storage Technologies Netherlands B.V.

The record also indicates that Petitioner did not pay or otherwise authorize the proper petition fees herein, which fee is a requirement of the regulations at set forth at under 37 C.F.R. §1.183 (for waiver of §3.81) and §1.323.

The Commentary at MPEP §307 provides:

> **307 Issue to Assignee [R-3]**
>
> *35 U.S.C. 152. Issue of patent to assignee.*
> Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided in this title.
>
> *37 CFR 3.81. Issue of patent to assignee.*
> (a)*With payment of the issue fee*: An application may issue in the name of the assignee consistent with the application's assignment where a request for such issuance is submitted with payment of the issue fee, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request must state that the document has been filed for recordation as set forth in § 3.11.
> (b)*After payment of the issue fee*: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11before 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.
(c)*Partial assignees*. (1) If one or more assignee, together with one or more inventor, holds the entire right, title, and interest in the application, the patent may issue in the names of the assignee and the inventor.
(2)If multiple assignees hold the entire right, title, and interest to the exclusion of all the inventors, the patent may issue in the names of the multiple assignees.<

Normally, for a patent to issue to an assignee, a request for issuance of the application in the name* of the assignee* must be filed in the United States Patent and Trademark Office (Office) at a date not later than the day on which the issue fee is paid. **>Such a request must indicate that the assignment has been previously recorded in the Office. If the assignment has not been previously recorded in the Office, the request must state that the document has been filed for recordation as set forth in 37 CFR 3.11. See 37 CFR 3.81(a).If a request for issuance to an assignee pursuant to 37 CFR 3.81(b) is submitted after the day on which the issue fee is paid, the request under 37 CFR 3.81(b) must include a request for a certificate of correction under 37 CFR 1.323 (accompanied by the fee set forth in 37 CFR 1.20(a)) and the processing fee set forth in 37 CFR 1.17(i). The request under 37 CFR 3.81(b) must state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent. The Office will issue a certificate of correction to reflect that the patent issued to the assignee provided the requirements of 37 CFR 3.81(b) and 37 CFR 1.323 are complied with.<

Only the first appearing name of an assignee will be printed on the patent where multiple names for the same party are identified on the **>Fee(s)< Transmittal form, PTOL-85B. Such multiple names may occur when both a legal name and an "also known as" or "doing business as" name is also included. This printing practice will not, however, affect the existing practice of recording assignments with the Office in the Assignment Division. The assignee entry on form PTOL-85B should still be completed to indicate the assignment data as recorded in the Office. For example, the assignment filed in the Office and, therefore, the PTOL-85B assignee entry might read "Smith Company doing business as (d.b.a.) Jones Company." The assignee entry on the printed patent will read "Smith Company."
Irrespective of whether the assignee participates in the prosecution of the application, the patent issues to the assignee if so indicated on the **>Fee(s)< Transmittal form PTOL-85B.

Unless an assignee's name and address are identified in item 3 of the **>Fee(s)<Transmittal form PTOL-85B, the patent will issue to the applicant. Assignment data printed on the patent will be based solely on the information so

supplied. >Assignment information printed on a patent is not updated after a patent is issued, and may not be reflective of the assignment recorded in the Office subsequent to the issuance of the patent. Detailed assignment information can be found by performing an assignment search on the USPTO Internet website, and by inspecting the recorded assignment documents.<

A request for a certificate of correction under 37 CFR 1.323 (see MPEP § 1481 and § 1485) arising from incomplete or erroneous assignee's name furnished >, or a missing assignee's name,< in item 3 of PTOL-85B will not be granted unless a **>request under 37 CFR 3.81(b) has been granted and the assignment was submitted for recordation as set forth in 37 CFR 3.11 before the patent issued. Any such request under 37 CFR 3.81(b)< should be directed to the Office of Petitions and should include:
(A)the *>processing< fee required by 37 CFR 1.17(*>i<);
(B)a request **>for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;<
(C)a statement that the **>assignment was submitted for recordation as set forth in 37 CFR 3.11before the issuance of the patent;< and
(D)a **>request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).<

Petitioner also is reminded to review the proper fees for petitions under 37 C.F.R. §1.183 (for waiver of §3.81 of/and §1.323)

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.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are

Notably, Petitioner has failed to satisfy, inter alia, the fee requirement of the regulation. Petitioner is reminded to review the regulatory requirements, including fee requirements, and the appropriate Commentary provided in the MPEP.

CONCLUSION

The petition(s) under 37 C.F.R. §1.183 (for waiver of §3.81) and §1.323 are **dismissed**.

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

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

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believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are; after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2]. 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.)

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

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ATTN: JOHN J. OSKOREP
ONE MAGNIFICENT MILE CENTER
980 N. MICHIGAN AVENUE, SUITE 1400
CHICAGO IL 60611

COPY MAILED

AUG 2 6 2008

In re Patent No. 6,954,327	:	
Issue Date: 11 October, 2005	:	
Application No. 10/675,734	:	ON PETITION
Filed: 30 September, 2003	:	
Attorney Docket No. HSJ9-2003-0117US1	:	

This is a decision on the petition (renewed) filed on 2 August, 2007, expressly for waiver under 37 C.F.R. §1.183, of provisions of 37 C.F.R. §3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction under 37 C.F.R. §1.323.

The Office regrets the delay in addressing this matter, however, the instant petition was provided to the attorneys in the Office of Petitions only on this writing.

The request is **GRANTED** upon the instant showing of the recordation of the assignment(s) (an Office review indicates) on 3 February, 2004, recordation at Reel/Frame 014303/0365. (Petitioner is reminded that in any future petition in this vein, this data should be provided.)

Petitioner requests issuance of a certificate of correction in the name of "Hitachi Global Storage Technologies Netherlands B.V., Amsterdam, (NL)" of the substance and in the form of that submitted therewith.

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

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

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[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

TUCKER, ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1475

COPY MAILED

MAR 15 2004

OFFICE OF PETITIONS

In re Application of
Wangoo et al.
Application No. 10/675,737
Filed: March 3, 2004
Atty Docket No. 66329/33336

DECISION ON PETITION

This is a decision on the "PETITION FOR ACCEPTANCE OF AN OMITTED DRAWING UNDER 37 C.F.R. 1.182 OR IN THE ALTERNATIVE FOR A NEW FILING DATE, filed March 3, 2004. Applicants petition that omitted Figure 3, submitted on petition, be accepted for inclusion with the above-referenced application and the original date of submission of the application, September 30, 2003, be accorded as the filing date of the present application. Alternatively, applicants state that in the event that the present Petition is denied, it is respectively requested that enclosed Figure 3 be accepted for inclusion with the subject application and the date of submission of Figure 3 be assigned as the filing date of the subject application.

Application papers in the above-identified application were deposited on September 23, 2002. However, on December 29, 2003, the Office of Initial Patent Examination mailed applicants a "Notice of Omitted Items in a Nonprovisional Application." Applicants were thereby advised that the application had been accorded a filing date; however, FIG. 3 described in the specification appeared to have been omitted from the application.

Petitioner does not dispute that figure 3 was not among the papers present in the application disclosure. Papers not present on filing cannot be considered part of the original application disclosure. Petitioner's arguments for retaining the original filing date with figure 3 considered part of the original application disclosure have been considered, but not found persuasive. Accordingly, to the extent that this petition requests that the application be accorded a filing date of September 30, 2003 with Fig. 3 present in the application, the petition is **DISMISSED**.

On petition, applicants also supplied the missing figures, along with a supplemental declaration referring to the figure; and the instant petition (and fee) under § 1.182.

The petition is **GRANTED** to the extent indicated herein.

The application is being returned to the Office of Initial Patent Examination for further processing with **a filing date of March 4, 2004**, using the application papers deposited on September 30, 2003 and the sheet of drawing, containing figure 3, supplied on March 4, 2004.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

John C. Alemanni
KILPATRICK STOCKTON, LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

MAILED

APR 19 2005

Technology Center 2100

In re Application of:
Craig Nevill-Manning et al.
Application No. 10/675,756
Filed: September 30, 2003
For: SYSTEMS AND METHODS FOR INFORMATION EXTRACTION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 10, 2005.

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

The request filed March 10, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Sabra-Anne R. Truesdale
c/o FENWICK & WEST LLP
801 California Street
Mountain View, CA 94041

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OFFICE OF PETITIONS

GOOGLE / FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA ST.
MOUNTAIN VIEW CA 94041

In re Application of	:	
Nevill-Manning et al.	:	
Patent Number: 7,505,984	:	
Issue Date: 03/17/2009	:	
Application No. 10/675756	:	ON REQUEST FOR
Filing or 371(c) Date: 09/30/2003	:	RECONSIDERATION OF
Attorney Docket Number: 24207-10062	:	PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed May 14, 2009. Applicants submit that the correct patent term adjustment is 1187 days, not 669 days as calculated by the Office as of the mailing of the Issue Notification. Applicants request this correction solely on the basis that the Office took in excess of three years to issue this patent.

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

On March 17, 2009, the above-identified application matured into U.S. Patent No. 7,505,984 with a patent term adjustment of 669 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment according to the ruling in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that the Patent Term Adjustment statute (35 U.S.C. § 154) does not permit the PTO to excuse one source of delay simply because it caused another source of delay by interpreting delays under Rule 703(a) and Rule 703(b) to be overlapping when such delays do not occur on the same calendar days. Applicants therefore request that the PTA be based on the sum of delays under Rules 703(a) and 703(b).

Under Rule 703(b), Patentee's calculate the period to be 899 days, beginning October 1, 2006 (three years from the day after the application filing date), to March 17, 2009 (the issue date of the patent). Patentees assert that in addition to this 899-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) totalling 525 days. This 525-day period is the result of a period of delay of 518 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 application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1), and a period of delay of 7 days for the failure by the Office to respond to a reply under 35 U.S.C. 132

not later than four months after the date on which the reply was filed. Patentees provide that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 899 days and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 525 days overlap for a period of 7 days only; the period of overlap deemed by patentee to run from May 9, 2008, to May 15, 2008.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office agrees that as of the issuance of the patent on March 17, 2009, the application was pending three years and 899 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 525 days is correct. At issue is whether patentees should accrue 899 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 525 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 525 days of examination delay overlaps with the period of 899 days of delay in issuance of the patent. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35

> U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

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

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

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)),

> the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, September 30, 2003, to the date the patent issued on March 17, 2009. Prior to the issuance of the patent, 525 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 525 days of examination delay overlap with the 899 days of delay in issuance of the patent. During that time, the issuance of the patent was delayed by 899 days, not 525 days and 899 days. The Office took 14 months and 518 days to issue a first Office action, and four months and 7 days to respond to a reply under 35 U.S.C. 132. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 525 days of Office delay and the time allowed within the time frames for processing and examination, the application issued three years and 899 days after its filing date. The Office did not delay 525 days and then an additional 899 days. Accordingly, at issuance, the Office properly entered 899 of patent term adjustment, the period of actual delay, because the period of delay of 525 days of examination delay overlaps with the adjustment of 899 days of delay in issuance of the patent. Entry of both periods is not warranted.

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

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

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

Alesia Brown
Senior Petitions Attorney
Office of Petitions

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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).

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OFFICE OF PETITIONS

BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON DC 20036-5304

In re Patent No.	:	
6,908,016	:	
Application No. 10/675,757	:	DECISION GRANTING PETITION
Filing Date: September 30, 2003	:	
Issue Date: June 21, 2005	:	
Attorney Docket No.1399-3 (OU03-0712-WL14		

This is a decision on the petition under 37 CFR 1.182, filed December 11, 2006, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted.**

The file record discloses that the above-cited application matured into U.S. Patent No. 6,908,016 on June 21, 2005. Petitioner contends, however, that the patent was never received and it is presumed lost in the mail.

In view of the facts set forth in the petition, it is concluded that the patent was never received. The Publishing Division is directed to issue duplicate Letters of Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to Krystal Paige at (703)308-9250.

A copy of this decision is being forwarded to the Publishing Division for issuance of a duplicate Letter of Patent. The patent file is being forwarded to the Files Repository.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Krystal Paige, P/OPPD/ST 8C32, (Fax 571-273-9756)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

February 17, 2010

Justin Liu
Xllinx, Inc.
2100 Logic Drive
San Jose, CA 95124

Patent No.: 7,114,055 B2
Application No.: 10/675,759
Inventor(s): Michael A. Baxter
Issued: September 26, 2006
Title: **REDUCED INSTRUCTION SET COMPUTER ARCHITECTURE WITH DUPLICATION OF BIT VALUES FROM AN IMMEDIATE FIELD OF AN INSTRUCTION MULTIPLE TIMES IN A DATA WORD**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

A petition under C.F.R. 1.182 is, required to correct the alleged error in an inventor's name/address, since an inventor's address is printed in accordance with the Declaration or the PTOL-85B (Issue Fee Transmittal), in file at the time of payment of the base issue fee. The Patent and Trademark Office did not make the error in the printing of the patent. An inventor's address is a matter not affecting the validity of technical subject mater of the patent, and since inventors often move both before the issuance of the patent and afterwards, no correction is in order under the provision of Rule 1.323, unless a petition under 1.18

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

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 1.182 should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

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

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA22313-1450
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HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH VA 22042-2924

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OFFICE OF PETITIONS

In re Application of
Akira Ishikawa et al.
Application No. 10/675,796
Filed: September 29, 2003
Attorney Docket No. 05911.0006.CNUS04

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed December 11, 2006, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional application 09/975,343.

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 three month extension of time required in application no. 09/975,343 for co-pendency was charged to petitioner's deposit account.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. 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 1773 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.

Charles Pearson
Director,
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/675,796	09/29/2003	1773	900	05911.0006.CNUS04	10	2

CONFIRMATION NO. 2224

CORRECTED FILING RECEIPT

OC000000023809911

27194
HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

Date Mailed: 05/10/2007

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)

Akira Ishikawa, Tochigi, JAPAN;
Takashi Ishii, Tochigi, JAPAN;
Mitsuhiro Katashima, Tochigi, JAPAN;
Masato Hoshi, Tochigi, JAPAN;
Takahisa Yamashiro, Tochigi, JAPAN;
Shinsuke Okuda, Tochigi, JAPAN;
Koji Uchida, Tochigi, JAPAN;

Power of Attorney:

Wallace Wu–45380

Domestic Priority data as claimed by applicant

This application is a CON of 09/975,343 10/11/2001 ABN
which is a CON of 09/554,678 07/17/2000 ABN *
which is a 371 of PCT/JP98/05183 11/18/1998
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

JAPAN 9-337733 11/21/1997
JAPAN 10-190867 07/06/1998
JAPAN 10-215432 07/30/1998

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/675,796

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MAGNETIC TAPE

Preliminary Class

428

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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May 12, 2008

Paul E. Kudirka
Law Offices O Paul E. Kudirka
40 Broad Street
Boston, MA 02109

Patent No.: 7,267,838 B2
Application No.: 10/675804
Inventor(s): Matthias Boese
Issued: September 11, 2007
Title: **METHOD FOR APPLYING A FILM OF SAMPLE TO A SAMPLE CARRIER**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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LAW OFFICES OF PAUL E. KUDIRKA
40 BROAD STREET
SUITE 300
BOSTON MA 02109

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AUG 25 2008

OFFICE OF PETITIONS

In re Patent No. 7,267,838 :
Issue Date: September 11, 2007 :
Application No. 10/675,804 : ON PETITION
Filed: September 30, 2003 :
Attorney Docket No. W0029/7005 :

This is a decision on the petition filed May 27, 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.

Pursuant to petitioner's authorization, deposit account no. 50-3969 will be charged the required $130.00 processing fee.

The request is **GRANTED**.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

United States
Patent And
Trademark Office

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

PETITION DECISION

04/12/04

Medtronic, INC.
710 Medtronic Parkway NE
MS-LC340
Minneapolis, MN 55432-5604

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/675815 received on 01/14/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

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OFFICE OF PETITIONS

In re Application of	:	
Philip J. Haarstad, et. al.	:	
Application No. 10/675,815	:	DECISION ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. P0010855.01	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely respond to the Notice of Allowance, mailed August 13, 2008. Accordingly, the date of abandonment of this application is November 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; 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 Denise Williams at (571) 272-8930.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BROOKS KUSHMAN P.C.
1000 TOWN CENTER, 22ND FLOOR
SOUTHFIELD, MI 48075

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OFFICE OF PETITIONS

In re Application of :
Richard M. Avery et al :
Application No. 10/675,834 :
Filed: September 30, 2003 :
Attorney Docket No. DDC 0555 PUS / 02-1-123

ON PETITION

This is a decision on the petition, filed May 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3747 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
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

MENDEL BIOTECHNOLOGY C/O MOFO SF
425 MARKET STREET
SAN FRANCISCO, CA 94105

In re Application of	:	
Jacqueline E. Heard et al	:	
Application No. 10/675,852	:	DECISION DISMISSING PETITIONS
Filed: September 30, 2003	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. MBI-0022CIP	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 16, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

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

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

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

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

The petition does not comply with item (1).

The amendment to the specification to add a claim for benefit of priority to the prior-filed provisional applications is not acceptable 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).

The Supplemental Application Data Sheet submitted with the petition on December 16, 2004 is further not acceptable since it is not signed. See 37 CFR 1.33(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or 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
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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STEPTOE & JOHNSON -
EXPLORAMED NC4, INC.
2121 AVENUE OF THE STARS,
SUITE 2800
LOS ANGELES CA 90067

MAILED

JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of :
Draper :
Application No. 10/675,855 : ON APPLICATION FOR
Filed: September 25, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 83456.0007.US :

This is in response to the PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b), filed January 14, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand seven hundred twenty-six (1,726) days[1], not five hundred twenty (520) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance 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

[1] This calculation is based on a projected issuance date of June 15, 2010.

determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that he 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[2].

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 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).

---

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

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

Telephone inquiries 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

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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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON TX 77056

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OFFICE OF PETITIONS

In re Application of :
David Alexander Russell et al :
Application No. 10/675,863 :
Filed: September 30, 2003 :
Attorney Docket No. WEAT/0275 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 16, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on February 17, 2007.

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

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 fee of $500, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of November 16, 2006 is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 2856 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 6 2004

In re Application of	:	
Ravi Varma	:	
Application No. 10/675,876	:	DECISION ON PETITION
Filed: September 29, 2003	:	
Attorney Docket No. ECOT.01USF1	:	

This is a decision on the petition to make special filed on August 16, 2004. The petition is based upon the practice described in MPEP § 708.02(IV) "Applicant's Age." Therefore, no petition fee is required.

The petition is dismissed as being moot.

The filing of a petition to make special is based upon 37 CFR 1.102 which authorizes the advancement of applications for examination out of turn. The record shows that this application was allowed on August 30, 2004, and so examination has been concluded. Therefore, the question of advancement for examination out of turn no longer exists.

PETITION DISMISSED.

Stephen Marcus, Special Program Examiner
Technology Center 3700

Cochran Freund & Young LLC
3555 Stanford Road
Suite 230
Fort Collins, CO 80525

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

JOHN G TOLOMEI, PATENT DEPARTMENT
UOP LLC
25 EAST ALGONQUIN ROAD
P O BOX 5017
DES PLAINES, IL 60017-5017

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JUN 01 2004

OFFICE OF PETITIONS

In re Application of Swenson et al. Application No. 10/675,890 Filed: September 30, 2003 Attorney Docket No. 104362-1	DECISION ON PETITION

This is a decision on the "PETITION TO ESTABLISH PRIOR RECEIPT IN THE P.T.O. OF ITEM(S) CONSIDERED AS NOT RECEIVED BY THE P.T.O. RESPONSE TO NOTICE OF INCOMPLETE APPLICATION," filed April 12, 2004. Petitioners request that the Office accord the above-identified application a filing date of September 30, 2003.

Application papers in the above-identified application were deposited on September 30, 2003. However, on March 17, 2004, the Initial Patent Examination Division mailed applicants a NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION. Applicants were thereby notified that the application papers had not been accorded a filing date because the application was deposited without drawings.

In response, applicants filed the instant petition (and petition fee). Applicants assert that the items indicated as omitted, the drawings, were in fact deposited with the P.T.O. with the original application papers filed on September 30, 2003. In support thereof, applicants submitted a copy of their return postcard from the USPTO.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioners' postcard receipt reveals that: 1) it was date stamped as received in the USPTO on September 30, 2003, and the items filed therewith were assigned Application No. 10/675890; 2) it specifically identifies the items being filed, including "12 SHEETS OF FORMAL DRAWINGS" and 3) it lacks any annotation of non-receipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the 12 sheet of formal drawings, were filed on September 30, 2003.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, petitioner's request to refund the petition fee is granted. The refund of the fee paid by credit card will be processed by the Finance Department.

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

- further processing with a filing date of September 30, 2003 using the application papers received in the Office and presently accorded that date; and the 12 sheets of drawings resupplied on petition filed April 12, 2004; and
- for indication in Office records that 12 sheet of drawings were present in the application on filing.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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EDWARD, LANGER
c/o SHIBOLETH, YISRELI, ROBERTS, ZISMAN & CO.
EMPIRE STATEM BUILDING
350 FIFTH AVENUE, 60TH FLOOR
NEW YORK NY 10118

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OFFICE OF PETITIONS

In re Application of	:	
Bronicki, et al.	:	
Application No.: 10/675,915	:	DECISION GRANTING PETITION
Filed: October 1, 2003	:	
Attorney Docket No.: 1557	:	
FOR: SYSTEM AND A METHOD FOR	:	
DEFINITION AND IMPLEMENTATION OF	:	
SOFTWARE SOLUTIONS	:	

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed on November 14, 2005.

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

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed April 7, 2005, which set a period for reply of three (3) months. Having received no extensions of time under 37 CFR 1.136(a) and having received no reply, the Office considered the application abandoned on July 8, 2005. A Notice of Abandonment was mailed on November 1, 2005.

Petitioners allege that the April 7, 2005 non-final Office action was not received at the proper correspondence address of record and therefore, the application is not really abandoned. The undersigned finds this assertion completely convincing because the Office action in question was mailed to an incorrect address. The record shows that a change in power of attorney was entered into the above-identified application's file on April 1, 2005. However, there is no record of any request being made to change the power of attorney in the application. The April 7, 2005 non-final Office action was mailed to an address other than the correspondence address of record.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application will be returned to Technology Center AU 2193 for the re-mailing of the April 7, 2005 non-final Office action with a new period for response.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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MOUNTAIN VIEW CA 94039-0013

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JUL 06 2004

OFFICE OF PETITIONS

In re Application of Gregory Scott Clark, Aynur Unal, Michael Meehan Application No. 10/675,926 Filed: September 30, 2003 Attorney Docket No. 215.1021.02	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed May 13, 2004.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on September 30, 2003, without a fully executed oath or declaration or the statutory basic filing fee. Accordingly, on January 9, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring these missing items and a surchage for their late filing. In reply, applicants filed the instant petition under 37 CFR 1.47(a) on May 13, 2004, made timely by obtaining a two month extension of time and including a Certificate of Mailing dated May 10, 2004 (May 9, 2004 fell on a Sunday).

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 applicants have included a statement of facts from attorney Jeffrey Scott Petro. According to Petro, a copy of the application papers was forwarded to the last known address of Unal on March 9, 2004. According to Petor, as of the date of filing the petition, no executed declaration from Unal has been received.

On petition, Rule 47 applicants have submitted a declaration in compliance with 37 CFR 1.63 and satisfied the requirements of 37 CFR 1.47(a). 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 non-signing inventor at the last known 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 3624 for processing into a patent.

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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TOWNSEND AND TOWNSEND AND CREW, LLP
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OFFICE OF PETITIONS

In re Application of:	:	
Whitaker et al.	:	
Application No. 10/675,929	:	DECISION GRANTING
Filed: September 29, 2003	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
SYSTEMS AND METHODS FOR VERIFYING	:	
MEDICAL INSURANCE COVERAGE	:	

This is in response to a Petition under 37 CFR 1.47(a), filed March 25, 2004 (Certificate of Mailing dated March 22, 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, Charles Whitaker, refuses to join in the application.

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

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1400 L STREET, N.W.
WASHINGTON DC 20005-3502

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OFFICE OF PETITIONS

In re Application of
Jean-Luc Denisart
Application No. 10/676,001
Filed: October 2, 2003
Attorney Docket No. 88265-6931

: DECISION GRANTING PETITION

This is a decision on the petition filed March 5, 2004, under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of October 2, 2003, with six (6) sheets of drawings as a part of the original disclosure.

The petition is **GRANTED**.

The application was filed on October 2, 2003. However, on January 5, 2004, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application had been deposited without drawings as required by 35 U.S.C. § 113.

In response, on March 5, 2004, the present petition was filed, accompanied by, *inter alia*, six (6) sheets of drawings. Petitioners assert that the above-identified application is a continuation of Application No. PCT/EP02/03632 filed March 26, 2002 and is incorporated by reference into the instant application.

A search of the official file reveals that on October 2, 2003, a specification and a "Utility Patent Application Transmittal" cover sheet both indicated that the application was a continuation of application no. PCT/EP02/03632, 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 prior application, and the incorporation by reference statement appearing on the first page of the specification deposited on October 2, 2003, stating that the application is a continuation of Application No. PCT/EP02/03632 herein incorporated by referenced, it appears that the drawings were present in the Office on October 2, 2003, albeit in the file of another application, *i.e.,* Application No. PCT/EP02/03632.

Therefore, on petition, the application may be accorded the requested filing date.

The application will be processed and examined with the six (6) sheets of drawings supplied on March 5, 2004, as a part of the original disclosure.

The petition filed March 5, 2004 is **GRANTED**.

Since the petition was required to accord the requested filing date, a petition fee in the amount of $130.00 is required and thus cannot be refunded.

Of course, the primary examiner is expected to compare the drawings supplied on March 5, 2004, to the disclosure of prior application No. PCT/EP02/03632 in order to verify that the drawings are, 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 October 2, 2003, using the application papers filed on October 2, 2003, and the copy of six (6) sheets of drawings, supplied on March 5, 2004, as the original disclosure, and for an indication in Office records that six (6) sheets of drawings were present on filing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 7017298
Issue Date: March 28,2006
Application No. 10676012
Filed: October 2,2003
Attorney Docket No. 101190-00034

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

This is a decision on the electronic petition, filed April 19,2010 ,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 19,2010 . 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)
7017298	2006-03-28	10676012	2003-10-02	101190-00034

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	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-04-19
Name	Kendal M. Sheets	Registration Number	47077

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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BIRDGEPORT, CT 06605-1601

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DEC 2 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Robert Vago	:	DECISION ON PETITION
Application No. 10/676,061	:	TO MAKE SPECIAL UNDER
Filed: October 1, 2003	:	37 CFR 1.102(c)(1)
Attorney Docket No. V11-001	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed September 19, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **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 a drive license. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3737 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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WOOD, HERRON & EVANS (ZIMMER SPINE)
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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JUN 13 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Thomas Ross	:	
Application No. 10/676,064	:	
Filed: October 2, 2003	:	
Attorney Docket No. 13313_-2-0606	:	

This is a decision on the petition, filed June 12, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 23, 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 3733 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

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KANESAKA & TAKEUCHI
1423 Powhatan Street
Alexandria VA 22314

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MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of Sasahara Application No. 10/676,071 Filed: October 2, 2003 Attorney Docket No. B0301T For: Semiconductor Device and Method of Setting Input Pin Capacity	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed March 25, 2004. Petitioner obtained a one-month extension of time to reply. Accordingly, the petition is timely filed.

The petition is **dismissed**.

Petitioner is given TWO (2) 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 October 2, 2003, without an executed oath or declaration. Accordingly, on December 31, 2003, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring an executed oath or declaration and a surcharge for its late filing.

In response, on March 25, 2004, petitioner filed the present petition and the requisite fees. The petition sets forth the last known address of the inventor, Katsuhiko Sasahara. The petition states that Oki Electric Industry Co,. Ltd. (Assignee) sent a letter dated November 26, 2003, including the declaration, the disclosure, and the assignment to the inventor at his last

known address. The Assignee did not receive a response from the inventor as of March 25, 2004. Additionally, the Assignee called the inventor several times at his last known telephone number; however, no person answered the telephone. Lastly, the Assignee stated that it will be irreparably damaged if the petition is not granted.

Petitioner requests that the Office allows the Assignee to proceed with prosecution of this application without the inventor's signature, pursuant to 37 CFR 1.47(b). Petitioner states the Assignee has a proprietary interest in the subject matter because the invention was assigned to Oki Electric Industry Co,. Ltd. by the inventor. A copy of the document accompanies the present petition.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Petitioner lacks items (1) and (2) as set forth above.

As to item (1), it is unclear whether petitioner is arguing that he is unable to locate the non-signing inventor or that the inventor has refused to sign the declaration.

Initially, the Office notes that petitioner has failed to submit sufficient evidence to prove that diligent efforts have been made to locate the non-signing inventor. See MPEP 403.03(d). If attempts to obtain a forwarding address and to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then petitioner will have provided the necessary proof required under 37 CFR 1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with firsthand knowledge of the details. Petitioner should submit documentary evidence such as a copy of an envelope returned as undeliverable or the results of an E-mail or Internet search.

However, if petitioner is asserting that the inventor refuses to sign the declaration, petitioner has failed to support this assertion. It is unclear if the inventor was presented with a complete copy of the application papers. The petition states that the inventor was present with "the disclosure." Unless inventor Sasahara 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." Accordingly, petitioner has 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, petitioner must show that complete copies of the application papers, including the specification, claims and drawings, was presented to inventor Peer and that he did not respond to the request that he sign the declaration.

As to item (2), it cannot be determined whether the declaration sets forth the residence, post office address, and citizenship of Katsuhiko Sasahara. The Office notes that:

> The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

Accordingly, to correct the deficiencies, petitioner should submit a new declaration setting forth the full name, residence, post office address, and citizenship of Katsuhiko Sasahara. Additionally, the declaration should be signed on behalf of the nonsigning inventor in compliance with 37 CFR 1.63 and 1.64.

Further correspondence with respect to this matter should be addressed as follows **and directed to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

By hand: 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) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JUL 1 4 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICIAL

Applicant: K. Sasahara
Application No. 10/676,071
Filed: October 2, 2003
Attorney Docket No. B0301T
For: SEMICONDUCTOR DEVICE AND METHOD OF SETTING INPUT PIN CAPACITY
Attention: Christina Tartera Donnell

Group Art Unit:
Examiner:

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, Fax No. (703) 872-9306 on 07/14/2004.

Y. Takeuchi
Yusuke Takeuchi

DRAFT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: K, Sasahara
Application No. 10/676,071
Filed: October 2, 2003
Attorney Docket No. B0301T
For: Semiconductor Device and Method of Setting Input Pin Capacity

REQUEST FOR RECONSIDERATION OF PETITION
UNDER 37 CFR 1.47(b)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attention: Christina Tartera Donnell

By FAX (703) 872-9306
Office of Petitions

Dear Sir:

We have received the Decision mailed May 26, 2004, dismissing the petition filed March 25, 2004. The decision states that petitioner lacks items (1) and (2).

As to item (1), the decision states if petitioner is asserting that the inventor refuses to sign the declaration, petitioner has failed to support this assertion. It is unclear if the inventor was presented with a complete copy of the application papers.

In reply thereto, petitioner stated "the disclosure" in the above petition filed March 25, 2004, but it was petitioner's error. Actually, a complete copy of the application papers was enclosed in the package mailed to the inventor on November 27, 2003. To support it, petitioner hereby submits, as Attachment 5, an English

translation of the Attachment 3 (Request for Inventor's Signature) filed with the above petition. It clearly shows that a copy of the English specification with claims and drawings to be filed in the United State were enclosed in the package mailed to the inventor on November 27, 2003.

As to item (2), the decision states that it cannot be determined whether the declaration sets forth the residence, post office address, and citizenship of Katsuhiko Sasahara. Accordingly, to correct the deficiencies, petitioner should submit a new declaration setting forth the full name, residence, post office address, and citizenship of Katsuhiko Sasahara. Additionally, the declaration should be signed on behalf of the nonsigning inventor in compliance with 37 CFR 1.63 and 1.64.

In reply thereto, petitioner hereby submits a new declaration setting forth the required facts and signed by an authorized officer in compliance with 37 CFR 1.63 and 1.64. An Attachment 6 is an English translation of Attachment 4 (Invention Report with Assignment) filed with the above petition.

In view of the above, petitioner respectfully requests that the Office grant this petition.

Respectfully submitted,
TAKEUCHI & TAKEUCHI

By Yusuke Takeuchi
Reg. NO. 30,921
Tel: (703)684-9777

Attorney Reference B0301T

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION
(Nonsigning Inventor)

As a below named officer, I hereby declare that:

Sole Inventor: Katsuhiko Sasahara
Residence: Tokyo, Japan
Citizenship: Japanese
Post Office Address: Famile Square Kokubunji 1004,
1-14 Kokubunji-Honcho 4-chome,
Tokyo 185-0012, Japan

I believe he is the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled

SEMICONDUCTOR DEVICE AND METHOD OF SETTING INPUT PIN CAPACITY

the specification of which was filed on October 2, 2003, as United States Application Number 10/676,071.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority under Title 35, United States Code, Section 119 (a)-(d) of a foreign application for patent listed below.

Prior Foreign Application: 2002-293148
County: Japan
Filed (Day/Month/Year): 07/10/2002

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and the such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: As a named officer, I hereby appoint the following agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Yusuke Takeuchi (Reg.No.30,921), Manabu Kanesaka (Reg.No.31,467), and
Satoru Takeuchi (Reg.No.53,670)

Send Correspondence to: Yusuke Takeuchi
TAKEUCHI & TAKEUCHI
1700 Diagonal Rd., Suite 310
Alexandria, VA 22314

Direct Telephone Calls to: Yusuke Takeuchi (703) 684-9777

Signed: _____ Date: _____

Name: Fumitaka Yokoyama

Title: General Manager of Oki Electric Industry Co., Ltd.

ATTACHMENT 5

(Translation of Attachment 3)

To: Katsuhiko Sasahara

Date: November 26, 2003

From: Oki Electric Industry Co., Ltd.
Intellectual Property Section
10-3 Shibaura 4-chome
Minatoku, Tokyo
Japan

REQUEST FOR INVENTOR'S SIGNATURE
Our Ref. F-01ED0647-US-ED

Dear Sir:

A patent application for the invention made by you and described in Japanese Patent Application No. 2002-293148 was filed in the United States.

Please sign and answer the attached documents according to the following instruction. Since there is a due date to file with the US Patent Office, please return the signed documents by December 8, 2003.

The documents to be signed are Declaration, Assignment, and Confidentiality Agreement. Please understand the contents of these documents and sign them at the marked positions. Please see the attached papers "Checking documents/Signing in English" for signing Declaration and Assignment. Please return all the documents.

Attachments:

(1) Confidentiality Agreement one copy
(2) Declaration and Assignment one copy
(3) English Specification with claims and drawings one copy
(4) "Request for Inventor's Signature" Checking documents/Signing in English one copy

ATTACHMENT 6

(Translation of Attachment 4)

OKI INVENTION/DESIGN REPORT
(Confidential)

Received No. 01 ED 0647

Received Date: 29/??/2002

Title of Invention: Semiconductor Memory Device

Summary of Invention: Method of setting an input pin capacity in a common chip mounted on a single chip package and multi-chip package

No. of Inventors: one

Assignment: I hereby attest that the right to receive a utility or design patent in Japan and foreign countries for the invention or design described above is assigned to Oki Electric Industry Co., Ltd. in terms and conditions of "Office Regulations."

Signed by: Katsuhiko Sasahara in Japanese and English
Section: SiSC Memory Design

Joint Inventors: none

Joint Applicants: none

Obligations to Others: none

Test Model: none

Application Deadline: none

Use: DRAM

Prior Art: Not searched

Related Report: none

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Hauptman Kanesaka Berner Patent Agents
Suite 300, 1700 Diagonal Road
Alexandria, VA 22314-2848

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AUG 3 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Katsuhiko Sasahara	:	DECISION ACCORDING STATUS
Application No. 10/676,071	:	UNDER 37 CFR 1.47(b)
Filed: October 2, 2003	:	
Attorney Docket No. B0301T	:	

This is in response to the renewed petition under 37 CFR 1.47(b), filed on August 10, 2004.

The petition is **GRANTED**.

Petitioner has shown that a copy of the application was presented to Katsuhiko Sasahara, the non-signing inventor. The inventor, however, refused to sign and return the declaration naming him as the sole inventor. Additionally, petitioner has shown that Oki Electric Industry Co, Ltd. has a proprietary interest by submitting an assignment. Lastly, petitioner has demonstrated that such action is necessary to prevent irreparable damage.

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

Based on the documentation and statements of the practitioner, the Office accepts that Fumitaka Yokoyama is empowered to act on behalf of the assignee. If this interpretation is incorrect, petitioner must inform the Office immediately.

The application file is being referred to Technology Center Art Unit 2815 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 30 2007

MARTIN D. MOYNIHAN
PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

In re Application of	:
Iris Pecker et al	:
Serial No.: 10/676,079	: PETITION DECISION
Filed: October 2, 2003	:
Attorney Docket No.: 26871	:

This is a decision on the PETITIONS FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed November 7, 2006, March 7, 2007, April 20, 2007 and May 14, 2007. 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**.

It is noted that the petition fee of $130.00 was paid twice. **Only one petition fee is required and the second petition fee of $130.00 will be credited to applicants' Deposit Account No 50-1407, as directed.**

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BURNS DOANE SWECKER & MATHIS LLP
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

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MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of	:
Jean Michel Bernardon et al	:
Application No. 10/676,089	: DECISION ON PETITION
Filed: October 2, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 016800-437	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 26, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for an additional benefit of priority to prior-filed nonprovisional Application No. 09/002,040, as set forth in the amendment filed concurrently with the instant petition.[1]

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and

---

[1] The claim for benefit of priority to prior-filed nonprovisional Application No. 09/788,469, while not referenced as required by 37 CFR 1.78(a)(2)(i), was nevertheless picked up by the Office, as noted on the Filing Receipt. *Note* MPEP 201.11(V), Rev. 2. May 2004, page 200-62, left column.

(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 application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

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

This application is being forwarded to Technology Center Art Unit 1625 for appropriate action on the amendment filed October 26, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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McKenna Long & Aldridge LLP
Song K. Jung
1900 K Street, N. W.
Washington, DC 20006

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Soo Keun Lee, et al.	:	
Application No. 10/676,097	:	DECISION ON PETITION
Filed: October 2, 2003	:	
Attorney Docket No. 27427.009.00-US	:	

This is a decision on the petition, filed May 27, 2005, to accord the above-identified application a filing date of October 2, 2003, with Figures 8-18 as part of the original application disclosure. This petition is properly treated under §1.53(e)(2)[1].

The application was filed on October 2, 2003. However, on May 16, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, Figures 8-18 appeared to have been omitted from the application.

In response, applicant timely filed the petition. Petitioner asserts that Figures 8-18 was included with the application when filed. In support thereof, petitioner submits a copy of a return postcard receipt.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in OIPE on October 2, 2003; 2) it specifically identifies the items being filed, including "18 drawings (14 sheets)" and 3) it lacks any annotation of non-receipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted, including the 14 sheets of drawing, were filed on October 2, 2003 and should be included in the original application papers.

Accordingly, the petition is **GRANTED**.

---

[1] §1.53(e) Failure to meet filing date requirements.
... (2) Any request for review of ... a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in §1.17(h). In the absence of a timely (§1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

Given the basis for granting the petition, the petition fee of $400 will be credited to petitioner's deposit account in due course.

This application file is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of October 2, 2003, using the Figures 8-18 supplied with the instant petition.**

Telephone inquiries concerning this matter may be directed to Marianne Jenkins at (571) 272-3223.

Brian Hearn
Senior Petitions Examiner
Office of Petitions

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAIL

APR 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of IWAMURA et al	:	
Application No.: 10/676,121	:	DECISION ON PETITION
Filing Date: October 2, 2003	:	FOR ACCELERATED
For: MULTI-SITE REMOTE-COPY SYSTEM	:	EXAMINATION UNDER
	:	M.P.E.P. §708.02(VIII)
	:	

This is a decision on the petition filed January 27, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 CFR §1.102(d), states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

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

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

With respect to requirement (E), the petition does not contain a detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). The petition includes a summary of the references US 2004/0024975, US 2004/0153719, and US 5,937,414. However, the single sentence description of the remaining references is insufficient. Furthermore, the petition contains only a general statement that none of the references disclose the limitations of the independent claims. The discussion does not identify with particularity the distinction between each independent claim and the disclosure of each cited reference.

Because the petition fails to satisfy all of the criteria set forth above, the petition to make special is **DISMISSED**.

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

The application will remain in the status of a new application awaiting action in its regular turn.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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ALEXANDRIA, VA 22314

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DEC 27 2005

Technology Center 2100

In re Application of IWAMURA et al	:	
Application No.: 10/676,121	:	DECISION ON PETITION
Filing Date: October 2, 2003	:	FOR ACCELERATED
For: MULTI-SITE REMOTE-COPY SYSTEM	:	EXAMINATION UNDER
	:	M.P.E.P. §708.02(VIII)
	:	

This is a decision on the renewed petition filed May 31, 2005 and the supplemental renewed petition filed June 21, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed January 27, 2005.

The petition is **DENIED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 CFR §1.102(d), states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

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

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

With respect to requirement (E), the petition does not contain a detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). Note that the discussion must point out how the claimed subject matter is patentable over the references. Although the renewed petition adequately distinguishes independent claims 1, 5, and 13 from the cited art, the petition states that essentially all of the limitations of independent claim 14 are not taught or suggested. A statement that the entirety of an independent claim is not disclosed by the prior art does not provide a sufficient distinction between the claimed invention and the cited references. Furthermore, it would be difficult to conclude that the pre-examination search was directed to the invention claimed in independent claim 14 if essentially none of the claim limitations were found in the "most closely related" prior art.

Because the petition fails to satisfy all of the criteria set forth above, the petition to make special is **DENIED**.

The application will remain in the status of a new application awaiting action in its regular turn.

Pinchus M. Laufer

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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

In re Application of
Hassan Jomaa
Application No. 10/676,131
Filed: October 2, 2003
Attorney Docket No. 40770B000005/US/DVA

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 22, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

In addition the withdrawal cannot be approved because the attorneys of record wish to withdraw by customer number. The listed attorneys were not appointed by customer and therefor cannot be approved to withdraw by customer number.

There are no pending office actions at the present time.

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 Wise

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of
Hassan Jomaa
Application No. 10/676,131
Filed: October 2, 2003
Attorney Docket No. 40770B000005/US/DVA

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, 2007.

The request is **NOT APPROVED**.

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

In addition the withdrawal cannot be approved because the attorneys of record wish to withdraw by customer number. The listed attorneys were not appointed by customer and therefor cannot be approved to withdraw by customer number.

There is an outstanding Office action mailed January 23, 2007 that requires a response from applicant.

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.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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January 23, 2007

Patent No. : 7,114,244 B2
Ser. No. : 10/676144
Inventor(s) : Yeom et al.
Issued : Oct. 3, 2006
Title : **DISC CENTERING DEVICE**
Docket No. : 1572.1148

Re: Request for Certificate of Correction

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

Inspection of the application for the patent reveals, however, that in connection with the alleged error pertain to Title page, item (54) of which applicant has referred; in the title, it is the practice to exclude words such as "Improvements in", "New", etc., from the printed patent.

The U.S. patent document title is determined as printed in accordance with the record in the Patent and Trademark Office.

In view of the foregoing request in this matter is hereby denied.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

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

CBN/eme

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 15, 2008

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/676152 Patent No.: 7206335 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-272-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

/David C. Payne/ — SPE
2611 — Art Unit

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

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COMMISSIONER FOR PATENTS
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KENYON & KENYON
1500 K STREET, N.W., SUITE 700
WASHINGTON, DC 20005

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MAR 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Sanford Redmond :
Application No. 10/676,162 :
Filed: October 2, 2003 :
Attorney Docket No. 12503/371003 :

DECISION GRANTING PETITION

This is a decision on the petition filed January 13, 2004, requesting that the above-identified application retain the presently accorded a filing date of October 2, 2003, with figures 76, 77, and 78 as part of the original disclosure.

On October 2, 2003, the above-identified application was filed. On December 31, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Items" (the "Notice"), stating that the application had been accorded a filing date of October 2, 2003, however, figures 76, 77, and 78 as described in the specification appeared to have been omitted. The Notice allowed a non-extendable two-month period for reply to the requirement to file the omitted item beginning from the mailing date of the Notice.

In response, on January 13, 2004, applicants filed the present petition, a copy 41 pages of informal drawings, 41 pages of formal drawings, and a postcard receipt date-stamped by the Office acknowledging receipt of 40 pages of informal drawings and 41 pages of formal drawings, among other items on October 2, 2003. Applicant also provided a copy of a communication requesting that the formal drawings replace the informal drawings.

Upon review of the record, figures 77, 76, and 78 as described in the specification were not located among the application papers. It is further noted that the Office date-stamped postcard acknowledged receiving 41 sheets of formal drawings, although only 40 pages of drawings ending with Figure 75 were found in reviewing the application. The evidence is convincing that the application papers deposited October 2, 2003, included 41sheets of formal drawings that included Figures 76, 77, and 78 as described in the specification. Therefore, the application, including Figures 76, 77, and 78 as described in the specification, was complete on filing and entitled to the presently accorded filing date of October 2, 2003.

Accordingly, the petition is granted.

It is noted that the copy of the formal drawings filed January 13, 2004, contained figures labeled 79 and 80 and that those figures are not described in the specification. This decision is not intended to address whether Figures 79 and 80 will be included as part of the original disclosure or whether the formal drawings will be considered acceptable during examination. This decision only addresses the issue of whether Figures 76, 77, and 78 were present on filing. Petitioner is advised that the examiner assigned to this application will likely require correction to the formal drawings or amendment to the specification.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of October 2, 2003, using the 41 sheets of formal drawings filed October 2, 2003. Deposit account 11-0600 will be refunded $130.00 that was remitted for the instant petition fee.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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JAN 30 2007

OFFICE OF PETITIONS

SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

In re Application of Burrell et al. :
Application No. 10/676,172 : Decision on Petition
Filing Date: October 1, 2003 :
Attorney Docket No. FIS920030073US1 :

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

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed January 6, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on April 7, 2006. A Notice of Abandonment was mailed on July 25, 2006.

The instant petition requests revival of the application.

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

Technology Center Art Unit 2814 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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EAST HANOVER, NJ 07936-1080

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JAN 06 2005

OFFICE OF PETITIONS

In re Application of :
Michael Hugh Quinn et al :
Application No. 10/676,173 : ON PETITION
Filed: October 1, 2003 :
Attorney Docket No. CL/V-32421 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 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 Nonprovisional Application (Notice) mailed December 23, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 24, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

This matter is being referred to the Office of Initial Patent Examination 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
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Christian A. Fox
KNOBBE MARTENS OLSON & BEAR LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

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MAR 1 3 2008

OFFICE OF PETITIONS

In re Application of :
Nenad Krtolica *et al.* :
Application No. 10/676,174 : DECISION ON PETITION
Filed: October 02, 2003 :
Attorney Docket No. ADRIA.001A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 08 February 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before 02 January 2008, as required by the Notice of Allowance and Fee(s) Due, mailed 02 October 2007. Accordingly, the date of abandonment of this application is 03 January 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00 and the publication fee of $300.00; (2) the petition fee of $770.00; 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.

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 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 intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Allen C. Ho at (571) 272-6052.

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

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 6, 2010

TO SPE OF : ART UNIT 2433 - SPE

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/676,174 Patent No.: 7,360,243 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the changes in the claims be approved?
See COCIN dated 03-29-2010

_____
Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/KIEU-OANH BUI/ 04/21/2010

SPE Art Unit

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CYMER INC
LEGAL DEPARTMENT
17075 THORNMINT COURT
SAN DIEGO, CA 92127-2413

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NOV 2 2 2004

OFFICE OF PETITIONS

In re Application of	:
Rajasekhar M. Rao et al	:
Application No. 10/676,175	: DECISION ON PETITION
Filed: September 30, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2003-0002-01	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 13, 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;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(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.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant pending application was filed on September 30, 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.

Any inquiries concerning this decision may be directed to Karen Creasy at (571)272-3208.

The examiner of Technology Center Art Unit 2877 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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JUN 25 2007

OFFICE OF PETITIONS

In re Application of
SHAHIDZADEH, et al.
Application No. 10/676,178
Filed: September 30, 2003
Attorney Docket No. **884.912US1**

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 9, 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 Mark Muller on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed February 23, 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: **SHAHROKH SHAHIDZADEH**
16036 S.W. WAXWING WAY
BEAVERTON, OR 97007

cc: **JT KALNAY**
MCDONALD HOPKINS, CO. LPA
600 SUPERIOR AVE EAST, SUITE 2100
CLEVELAND, OH 44114

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John T. Kalnay
c/o INTELLEVATE, LLC
P. O. Box 52050
Minneapolis, MN. 55402

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OFFICE OF PETITIONS

In re Application of	:	
Shahidzadeh Shahrokh et al	:	
Application No. 10/676,178	:	ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. P16299	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 12, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 20, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

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 a proper item (3).

The record indicates that Schwegman, Lundberg, Woessner & Kluth, P.A. was responsible for prosecution of the application when the reply necessary to avoid abandonment was due. Therefore, petitioner must provide a statement from Schwegman, Lundberg, Woessner & Kluth, explaining why action was not timely taken to prevent the application from becoming abandoned.

Petitioner is advised to send a letter (accompanied by a copy of this decision) to Schwegman, Lundberg, Woessner & Kluth, P.A. at P. O. Box 2938, Minneapolis MN, 55402, by certified or registered mail (return receipt requested) indicating that the U.S. Patent and Trademark Office (USPTO) is requesting assistance in ascertaining the cause of abandonment of the above-identified application, and that the USPTO is requesting that Schwegman, Lundberg, Woessner, & Kluth, P.A. provide within a specified period (*e.g.*, one month) a statement setting forth why appropriate action was not timely taken to prevent the application from becoming abandoned. Petitioner is advised that, in the event that Schwegman, Lundberg, Woessner, & Kluth, P.A. does not provide such a statement, petitioner should submit a copy of such letter and a copy of the return receipt.

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 Thurman K. Page at (571) 272-0602.

Telephone inquiries concerning this decision should be directed to Thurman K. Page at (571) 272-0602.

David Bucci
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BLAKELY, SKOLOFF, TAYLOR, & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of :
Shahrokh Shahidzadeh :
Application No. 10/676,178 : DECISION ON PETITION
Filed: September 30, 2003 :
Attorney Docket No. P16299 :

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

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 20, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 .

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 $1500.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

This application is being referred to Technology Center AU 2612 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Pet. Dec.

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spg

Mailed: JUL 14 2005

In re application of Hoo Chung et al. Serial No. 10/676,189 Filed: September 20, 2003 For: POLYMER, POLYMER MICROFIBER, POLYMER NANOFIBER AND APPLICATIONS INCLUDING FILTER STRUCTURES	:	DECISION ON PETITION

This is a response to the REQUEST UNDER 37 CFR § 1.8(b) TO WITHDRAW HOLDING OF ABANDONMENT filed by facsimile transmission January 31, 2005. The request asks that the abandonment, as set forth in the Notice of Abandonment of January 11, 2005, be withdrawn since the applicants did timely file a reply on August 5, 2004.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the instant application file reveals that the Notice of Abandonment of January 11, 2005 was previously withdrawn and the application subsequently acted on by the Examiner.

In view of the fact that the abandonment was previously withdrawn and the application acted on the petition is **DISMISSED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Attn: Mark DiPietro
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis MN 55402-0903

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

MAR 28 2005

MAILED
MAR 28 2005
OFFICE OF THE DIRECTOR
TC 3600

PATRICK J S INOUYE P S
810 3rd Avenue
Suite 258
Seattle, WA 98104

In re application of
Andrew Fikes et al.
Application No. 10/676,195 :
Filed: September 30, 2003 :
For: SYSTEM AND METHOD FOR AUTOMATICALLY TARGETING WEB-BASED ADVERTISEMENTS :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on February 28, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

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

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

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

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

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

As to condition A), the attorneys listed in the request (Customer Number 22895) do not correspond with those named in the Power of Attorney in the declaration, thereby creating confusion as to who is withdrawing. The original Power of Attorney appointed several attorneys. Of these attorneys, Kulpreet Rana, Karl Sun, and Amin Zoufonoun are not associated with Customer No. 22895. 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 the other attorneys, or a statement that all attorneys of record, would need to be added to the request.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 03/23/05

O I P E JC150
APR 1 1 2005
PATENT & TRADEMARK OFFICE

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/676,195
Filing Date	September 30, 2003
First Named Inventor	Fikes, Andrew
Art Unit	2171
Examiner Name	Unassigned
Attorney Docket Number	025.0366.US.UTL

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

APPROVED 5/20/05

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [X] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] the attorneys/agents associated with Customer Number [ ]

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

The reasons for this request are: Pursuant to 37 CFR 10.40(b)(4), practitioner has been discharged by the client. Practitioner has taken reasonable steps to avoid foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for employment of another practitioner, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules.

CORRESPONDENCE ADDRESS

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

[ ] The address associated with Customer Number: [ ]

OR

[X] Firm or Individual Name	Kulpreet Rana				
Address	Google Inc. 1600 Amphitheatre Parkway, Bldg. 41				
City	Mountain View	State	CA	Zip	94043
Country					
Telephone	650-623-5123	Fax			
Signature					
Name	Patrick J.S. Inderye	Registration No.	40,297		
Date	April 8, 2005	Telephone No.	206-381-3900		

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.

OIPE JC180
APR 1 1 2005
PATENT & TRADEMARK OFFICE

Application Number: 10/676,195
Filing Date: September 30, 2003
First Named Inventor: Fikes, Andrew
Art Unit: 2171
Examiner Name: Unassigned
Attorney Docket No.: 025.0366.US.UTL

ATTACHMENT TO REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

List of Registration Numbers affected by this request:

40,297

O I P E JC130
APR 1 1 2005
PATENT & TRADEMARK OFFICE

IFW

PTO/SB/21 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)			
		Application Number	10/676,195
		Filing Date	September 30, 2003
		First Named Inventor	Fikes, Andrew
		Art Unit	2171
		Examiner Name	Unassigned
Total Number of Pages in This Submission		Attorney Docket Number	025.0366.US.UTL

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
- [X] Other Enclosure(s) (please identify below):

Request to Withdraw as Attorney or Agent
Postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Law Offices of Patrick J.S. Inouye		
Signature			
Printed name	Patrick J.S. Inouye		
Date	April 8, 2005	Reg. No.	40297

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	Larissa Pigott		
Typed or printed name	Larissa V. Pigott	Date	April 8, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

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

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

COPY MAILED
MAR 16 2006
OFFICE OF PETITIONS

In re Application of	:
Daniel Joseph Brunelle et al	:
Application No. 10/676,199	: DECISION ON PETITION
Filed: October 1, 2003	: UNDER 37 CFR 1.313(c)(3)
Atty Docket No. 125882 (1306-20)	:

This is a decision on the petition, filed February 23, 2006, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment.

The petition complies with the requirements of 37 CFR 1.313(c)(3). Accordingly, the application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\676199.wpd

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

STOLOWITZ FORD COWGER LLP
621 SW MORRISON ST
SUITE 600
PORTLAND OR 97205

MAILED

MAY 06 2010

OFFICE OF PETITIONS

In re Application of	:
Rundquist et al.	:
Application No. 10/676,207	: DECISION ON PETITION
Filed: September 30, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2580-0057	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 28, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

With regards to item (1), petitioner has requested benefit of Application No. 09/060,520 filed on April 14, 1998. However, this nonprovisional application abandoned on October 18, 2002. Therefore, since the instant application was filed on September 30, 2003, no copendency exists between these two applications. Copendency between the instant application and the prior application is required. Further, since the applications are not copending, the benefit claim to the prior-filed nonprovisional is improper. Applicant is required to delete the reference to the prior-filed application from the first sentence(s) of the specification, unless applicant can establish copendency between the applications.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] correcting the above matter, along with a renewed petition under 37 CFR 1.78(a)(6), is required. No further petition fee is necessary.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

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Alexandria, VA 22313-1450
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MAR 29 2010

OFFICE OF PETITIONS

JAMES RUSSELL CLAYBROOK
P.O. BOX 843
NEW HAMPTON NY 10958

In re Application of	:	
Noel P. Horkan	:	
Application No. 10/676,209	:	DECISION ON PETITION
Filed: October 1, 2003	:	
Attorney Docket No. HOR 101	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2009, and supplemented on March 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed April 12, 2005, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3711 for appropriate action by the Examiner in the normal course of business on the reply received December 15, 2009 (amendment) and on March 26, 2010 (RCE).

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

OIPE IAP88
NOV 23 2009
PATENT & TRADEMARK OFFICE

HR 10676215

COFC

PATENT
137402

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: 6,934,353 B2

Issued: August 23, 2005

Inventor(s): Wang et al.

Assignees: GE Medical Systems Global Technology Company, LLC and University of Iowa Research Foundation

For: METHODS, APPARATUS, AND COMPUTER READABLE MEDIUMS FOR PERFORMING PERFUSION STUDIES

Certificate
NOV 25 2009
of Correction

CERTIFICATE OF MAILING

I certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on November 18, 2009.

William J. Zychlewicz
Reg. No. 51,366

Attention Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT UNDER 37 C.F.R. 3.81

Sir:

Attached is Form PTO/SB/44 suitable for printing. Applicants respectfully request a Certificate of Correction to add University of Iowa Research Foundation as an Assignee. The Assignment was submitted for recordation as set forth in 37 C.F.R. 3.11 before issuance of the patent on October 01, 2003 and recorded at Reel/Frame 014584/0259. The Assignment for GE Medical Systems Global Technology Company, LLC was submitted for recordation as set forth in 37 C.F.R. 3.11 before issuance of the patent on October 01, 2003 and recorded at Reel/Frame 014590/0138.

11/23/2009 RMEBRAHT 00000022 012384 6934353
01 FC:1811 100.00 DA

The correction is due to Applicants' error and Applicants hereby authorize the Commissioner to charge **$ 100.00** to Deposit Account 01-2384 for the certificate of correction fee. If any additional fee is required, the Commissioner is hereby authorized to charge Deposit Account No. 01-2384.

Respectfully submitted,

Date: 11/18/07

William J. Zychlewicz
Reg. No. 51,366
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070

OIPE IAP88
NOV 2 3 2009
PATENT & TRADEMARK OFFICE

PATENT
137402

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: 6,934,353 B2

Issued: August 23, 2005

Inventor(s): Wang et al.

Assignees: GE Medical Systems Global Technology Company, LLC and University of Iowa Research Foundation

For: METHODS, APPARATUS, AND COMPUTER READABLE MEDIUMS FOR PERFORMING PERFUSION STUDIES

CERTIFICATE OF MAILING

I certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on November 18, 2009.

William J. Zychlewicz
Reg. No. 51,366

Attention Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT UNDER 37 C.F.R. 3.81

Sir:

Attached is Form PTO/SB/44 suitable for printing. Applicants respectfully request a Certificate of Correction to add University of Iowa Research Foundation as an Assignee. The Assignment was submitted for recordation as set forth in 37 C.F.R. 3.11 before issuance of the patent on October 01, 2003 and recorded at Reel/Frame 014584/0259. The Assignment for GE Medical Systems Global Technology Company, LLC was submitted for recordation as set forth in 37 C.F.R. 3.11 before issuance of the patent on October 01, 2003 and recorded at Reel/Frame 014590/0138.

The correction is due to Applicants' error and Applicants hereby authorize the Commissioner to charge **$ 100.00** to Deposit Account 01-2384 for the certificate of correction fee. If any additional fee is required, the Commissioner is hereby authorized to charge Deposit Account No. 01-2384.

Respectfully submitted,

Date: 11/18/09

William J. Zychlewicz
Reg. No. 51,366
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070

PTO/SB/44 (08-07)
Approved for use through 08/31/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,934,353 B2

APPLICATION NO. : 10/676,215

ISSUE DATE : August 23, 2005

INVENTOR(S) : Wang 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:

Assignees for said Letters Patent are:

GE Medical Systems Global Technology Company, LLC, Waukesha, Wisconsin (USA) and

University of Iowa Research Foundation, Iowa City, Iowa (USA).

MAILING ADDRESS OF SENDER:
William J. Zychlewicz
Armstrong Teasdale LLP
One Metropolitan Sq., Suite 2600
St. Louis, MO 63102

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.**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Robert N. Crouse
Myers Bigel Sibley & Sajovec, P.A.
Patent Lawyers
P.O. Box 37428
Raleigh, NC 27627

COPY MAILED

NOV 1 0 2004

OFFICE OF PETITIONS

In re Application of	:
Dong-Yang Lee	: DECISION GRANTING PETITION
Application No. 10/676,232	:
Filed: October 1, 2003	:
Attorney Docket No. 5649-1146	:

This is a decision on the petition under 37 CFR 1.53(e), filed October 22, 2004, requesting that the above-identified application be accorded a filing date of October 1, 2003, with Figures 1 and 2 as part of the original disclosure.

On October 1, 2003, applicant deposited the above-identified application. On September 1, 2004, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application," requiring drawings of applicant's invention and stating that the filing date would be the date of receipt of the omitted drawings.

In response, on September 1, 2004, applicant filed the present petition, and a copy of one sheet of drawings (Figures 1 and 2). Additionally, applicant submitted a copy of the date-stamped postcard receipt, acknowledging receipt of one sheet of drawings on October 1, 2003.

Upon review of the record, the one sheet of drawings (Figures 1 and 2) deposited on October 1, 2003, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 1, 2003, included one sheet of drawings (Figures 1 and 2), which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the

application, including Figures 1 and 2, was complete on filing and will be granted a filing date of October 1, 2003.

Accordingly, the petition is granted. The requirement for drawings as set forth in 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. 50-0220

The Office of Initial Patent Examination is directed to process the above-identified application with a filing date of October 1, 2003, using Figures 1 and 2 submitted on petition, and to mail a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE D. Nelms

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/676,232

Paper No.: _____

DATE : 8/5/05

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 6885603

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

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

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

References not considered because filed after issue fee paid

David Nelms
Supervisory Patent Examiner
Technology Center 2800
SPE

2818
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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600 13th Street, N.W.
Washington DC 20005-3096

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APR 3 0 2004

OFFICE OF PETITIONS

In re Application of
Kitawaki, et al.
Application No. 10/676,263
Filed: October 2, 2003
Attorney Docket No. 43888-278
For: ANALYTE SAMPLING ELEMENT, ANALYTE TREATMENT DEVICE AND ANALYTE TREATMENT METHOD

DECISION ON PETITION

This is a decision on the petition filed March 9, 2004 requesting that Figure 16 be accorded a filing date of October 2, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was filed on October 2, 2003. On January 12, 2004, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) informing petitioners, *inter alia*, that Figure 16, as described in the specification, appeared to have been omitted.

Petitioners request that Figure 16 be accorded a filing date of October 2, 2003 on the basis that 11 pages of formal drawing figures, including Figure 16, were received in the Patent and Trademark Office (PTO) on October 2, 2003. In support, the instant petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing October 2, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 11 pages of formal drawings.

The return postcard constitutes *prima facie* evidence that 11 pages of formal drawing figures were filed on October 2, 2003. MPEP 503. A review of the application file reveals that there are only 10 pages of drawing figures present.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**. No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **October 2, 2003**, using the copy of Figure 16 submitted with the instant petition. Office records will be corrected to show that 11 pages of drawings were present on initial filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

Bahta, Kidest

From: Newsome, Lamonte
Sent: Thursday, August 16, 2007 2:07 PM
To: Picard, Leo; Bahta, Kidest
Subject: RE: 10676275

2nd Request!

The above application is on my past due list, please respond with an answer to the certificate of correction request. I have received several calls from the attorney requesting a date that they can expect to receive their certificate.

Your prompt attention to this is greatly appreciated, to enable me to remove this from the past due list and the application toward issuance .

---

rom: Newsome, Lamonte
ent: Friday, July 27, 2007 4:24 PM
o: Picard, Leo
ubject: 10676275

Please review CofC in the (eDAN) Madras!!!

10676275

call
703-305-8309

SPE: L. Picard

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/17/07

TO SPE OF : ART UNIT 2125

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/676,275 Patent No.: 7206661

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: _____

LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

L. P. Picard — 2125

SPE — Art Unit

Staple Here Only

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. .: 7,206,661

APPLICATION NO .: 10/676,275

DATED .: APRIL 17, 2007

INVENTOR(S) .: SOMASHEKAR RAMACHANDRAN SUBRAHMANYAM, AND SHIVAKUMAR SUNDARAM

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

In the Drawings, Sheet 5 of 13, Figure 5:
reference numeral "412" should read --408--;
reference numeral "414" should read --410--.

MAILING ADDRESS OF SENDER:

Andrew H. Leung
Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, Minnesota 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR -8 2004

In re Application of	:	
Wayne O. Hadland	:	
Serial No. 10/676,291	:	DECISION ON PETITION
Filed: September 30, 2003	:	TO MAKE SPECIAL
For: SUPPORT FIXTURE FOR FOOD:		
PLATE AND BEVERAGE	:	
CONTAINER	:	

Applicant's petition, filed September 30, 2003, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Wayne O. Hadland
P.O. Box 88
Sweet Home, OR 97386-0088

UNITED STATES 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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

COPY MAILED

JUN 16 2006

OFFICE OF PETITIONS

In re Application of :
Reza M. Golzarian et al. :
Application No. 10/676,294 :
Filed: September 30, 2003 :
Attorney Docket Number: :
42P16397 :
Title: UNIDIRECTIONALLY :
CONDUCTIVE MATERIALS FOR :
INTERCONNECTION :

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on March 16, 2006.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed October 17, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue or publication fees[2]. Accordingly, the above-identified application became abandoned on January 18, 2006. A notice of abandonment was mailed on February 21, 2006.

---

1 A grantable petition pursuant to 37 C.F.R. 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

With the present petition, Petitioner has submitted the petition fee, the publication fee, the issue fee, and the proper statement of unintentional delay.

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

After the mailing of this decision, the Office of Patent Publications will be notified of the same so that the present application can be processed into a patent.

The phone number for the Office of Patent Publication is (571) 272-4200. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 1004

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JUN 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Andrea URBAN ET AL	:	
Application No. 10/676,295	:	DECISION DISMISSING PETITION
Filed: September 30, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 10191/3212A	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 25, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 09/720,758, filed December 28, 2000.

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 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a

proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. Here, a review of the record also indicates that petitioner presents parent 09/720,758 in the amendment as a "continuation", and presents the same parent 09/720,758 as a "continuation in part". See the amendment filed November 25, 2005 and the amendment filed May 25, 2007 respectively. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules.

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) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of Banerjee et al. Application No. 10/676,307 Filed: September 30, 2003 Attorney Docket Number: 111027-134378 Title of Invention: Strained-Silicon Voltage Controlled Oscillator (VCO)	: : : : : :	ON PETITION

This is a decision on the petition filed February 8, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees , as required by the Notice of Allowance and Fee (s) Due which was mailed June 23, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 24, 2005. A Notice of Abandonment was mailed on November 10, 2005.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). 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 requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

there is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Edwin H. Taylor
12400 Wilshire Blvd. 7th Fl.
Los Angeles, CA 90025-1026

Best Available Copy

SCAN! Please forward case and paper to address shown below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/16/07

TO SPE OF : ART UNIT 2816 Callahan Timothy P (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/676309 Patent No.: 6956420

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Corrections have been made

SPE

2816
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

JAN 21 2005

MAILED

JAN 21 2005

OFFICE OF THE DIRECTOR
TC 3600

Banner & Witcoff, LTD.
Ten South Wacker Drive
Suite 3000
Chicago, IL 60606

In re application of
Scott Johnston et al.
Application No. 10/676,318
Filed: October 1, 2003
For: ORDER RISK MANAGEMENT SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the renewed petition filed on December 29, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(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**.

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/jwk: 01/13/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE, SUITE 3000
CHICAGO, IL 60606

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JAN 0 7 2008

OFFICE OF PETITIONS

In re Application of :
SALVADORI, et al. :
Application No. 10/676,318 : DECISION GRANTING PETITION
Filed: October 1, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **6119.0010** :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 10, 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 Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3694 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,319	10/01/2003	Arthur I. Watson	68.0415	6502

35204 7590 06/01/2005

SCHLUMBERGER RESERVOIR COMPLETIONS
14910 AIRLINE ROAD
ROSHARON, TX 77583

EXAMINER
KERSHTEYN, IGOR

ART UNIT	PAPER NUMBER
3745	

DATE MAILED: 06/01/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Serial No. 10/676,319

In re Application of: WATSON et al.	:
Filed: October 1, 2003	: DECISION ON REQUEST
For: Stage Pump Having Composite Components	: UNDER 37 CFR §1.48(a)

This is a response to the request filed May 7, 2004 requesting that the inventorship in application Serial No. 10/676,319 be corrected under 37 CFR §1.48(a) to indicate that inventorship is to Arthur I. Watson, Dwight C. Chilcoat, Diego A. Narvaez, Joseph C. Liu, and Kentankumar K. Sheth as co-inventors of the claimed subject matter.

The requisite submissions, which include:

1. a request to correct the inventorship that sets forth the desired inventorship change;

2. a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

3. an oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or §1.47;

4. the processing fee set forth in 37 CFR §1.17(i); and

5. the written consent of the assignee if an assignment has been executed by any of the original named inventors.

have been provided.

The request is GRANTED.

Edward Look

Edward Look
Supervisory Patent Examiner
Technology Center 3700

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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CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER, NJ 07936-1080

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JAN 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Phelan et al.	:	
Application No. 10/676,332	:	ON PETITION
Filed: October 1, 2003	:	
Attorney Docket No. CL/V-32660A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 20, 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 January 29, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 30, 2004. A Notice of Abandonment was mailed on November 26, 2004.

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

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

cc: ROBERT J. GORMAN
CIBA VISION COPORATION, PATENT DEPT.
11460 JOHNS CREEK PARKWAY
DULUTH, GA 30097

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 6922082 B2

Paper No.: _____

DATE : 2/26/07

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/676345 Patent No. 6922082 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**.

6922082 B2

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

10/676345 Patent No. 6922082 B2

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 do not affect the scope of the Claims.

Virginia Tolbert

Certificates of Correction Branch

Clifford Barnie 2819

SPE Art Unit

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

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

KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Govindaraj Ramanathan	: DECISION ON REQUEST FOR
Patent Number	: 7603266	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/676,350	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **667** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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WARD KRAFT, INC.
PO BOX 938
FORT SCOTT, KS 66701

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SEP 23 2008

In re Application of	:	
Roger D. BUCK, et al	:	
Application No. 10/676,356	:	DECISION ON PETITION
Filed: October 23, 2003	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
WK/2003-06/US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 27, 2008.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, ceased to be counsel for assignee, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Ulrich Neumann	: DECISION ON REQUEST FOR
Patent Number	: 7583275	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/676,377	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **144** 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

FISH & RICHARDSON PC
225 FRANKLIN STREET
BOSTON, MA 02110

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FEB 08 2005

OFFICE OF PETITIONS

In re Application of	:
Terence Royle	:
Application No. 10/676,402	: DECISION GRANTING PETITION
Filed: October 1, 2003	: UNDER 37 CFR 1.313(c)(2)
Atty Dkt No. 02894-626001/80047-PY18	:

This is a decision on the petition, filed February 4, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 10, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3724 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/676,403	10/01/2003	3677	375	KP-49A	1	4	1

CONFIRMATION NO. 7551

CORRECTED FILING RECEIPT

OC000000014197841

M.P. Williams
210 Main Street
Manchester, CT 06040

Date Mailed: 10/27/2004

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)

Ricky W. Selby, Danielson, CT;

Power of Attorney:

MELVIN PEARSON WILLIAMS–19220

Domestic Priority data as claimed by applicant

This application is a CON of 10/242,264 09/12/2002 ABN

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 US10/676,403

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

AXIAL ADJUSTABLE TIE-DOWN STRETCH CORD TERMINUS

Preliminary Class

024

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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Alan H. Thompson
Deputy Laboratory Counsel For Intellectual Property
Lawrence Livermore National Laboratory
P.O. Box 808, L-703
Livermore CA 94551

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JUN 2 1 2007

OFFICE OF PETITIONS

In re Application of :
Johnson et al. :
Application No. 10/676,450 : DECISION ON PETITION
Filed: September 30, 2003 :
Attorney Docket Number: IL-11198 :

This is a decision on the petition, filed May 15, 2007 which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of August 25, 2006, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before November 25, 2006.

Petitioner states that a timely reply was mailed via certificate of mailing on February 26, 2007 which included the following papers: amendment, and request for a three month extension of time (accompanying fee). Petitioner has provided a copy of the response which contains a certificate of mailing dated February 26, 2007. The reply is deemed timely based on the fact that February 25, 2007 fell on a Sunday.

Review of the file record shows the originally submitted reply sent on February 26, 2007 was received in the Office on March 5, 2007. Thus the original reply has been located.

Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of August 25, 2006 is hereby withdrawn and the application restored to pending status.

This application is being referred to art unit 2613 for appropriate action 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

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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MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

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OFFICE OF PETITIONS

In re Application of	:	
Ehud Dafni	:	
Application No. 10/676,461	:	DECISION ON PETITION
Filed: September 30, 2003	:	TO WITHDRAW
Attorney Docket No. 37590	:	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 1, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: EHUD DAFNI
14 SNAPIR STREET
PO BOX 5377
CAESAREA 38900
ISRAEL

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SUITE 660
CAMPBELL CA 95008

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OFFICE OF PETITIONS

In re Application of
Bergevin, et al. :
Application No. 10/676,466 : DECISION ON
Filed: September 30, 2003 : PETITION
Attorney Docket No. HSJ920030113US1 :

This is in response to the petition to revive under 37 CFR 1.137(b), filed April 27, 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 as required by the Notice of Allowance mailed on November 15, 2005. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on February 16, 2006. A Notice of Abandonment was mailed on March 28, 2006.

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of the issue fee, and made the proper statement of unintentional delay.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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JAN 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
VAINSTEIN, et al.	:	
Application No. 10/676,474	:	DECISION ON PETITION
Filed: February 12, 2002	:	TO WITHDRAW
Attorney Docket No. SSL1P021/SS-041	:	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 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 Susan Yee on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **KLIMENTY VAINSTEIN**
10526 N, FOOTHILL BLVD, #A
CUPERTINO, CA 95014

cc: **RYAN MORRISON**
INVENTION LAW GROUP
1756-114TH AVENUE SE, SUITE 110
BELLEVUE, WA 98004

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
10/676,474	09/30/2003	Klimenty Vainstein	SSL1P021/SS-041

CONFIRMATION NO. 7534

OC000000021977470

22830
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

Date Mailed: 01/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/20/2006.

- 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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P.O. Box 1450
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SMYRSKI LAW GROUP, A PROFESSIONAL CORPORATION
3310 AIRPORT AVENUE, SW
SANTA MONICA CA 90405

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JAN 22 2007

OFFICE OF PETITIONS

In re Application of	:	
OGLE	:	
Application No. 10/676,483	:	DECISION GRANTING PETITION
Filed: September 30, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. INSG0011	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 16, 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 December 21, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2186 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Frances Dicks for
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 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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471

MOTOROLA, INC.
CORPORATE LAW DEPARTMENT - #56-238
3102 NORTH 56TH STREET
PHOENIX AZ 85018

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OFFICE OF PETITIONS

In re Application of
Rosenstock, Dykiel, Leibensperger & Bhandaru
Application No. 10/676,484
Filed: September 30, 2003
Attorney Docket No. IS01408MCG
For: INFINIBAND ARCHITECTURE SUBNET REPLICATED DATABASE ELEMENTS

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 20, 2004 (certificate of mailing date January 14, 2004).

The petition is granted.

Petitioners have shown that the non-signing inventors, Richard Dykiel and Michael Leibensperger, have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Attorney Kevin D. Willis establishes that Mr. Dykiel refused to accept the application papers through his attorney, who stated that Mr. Dykiel would not cooperate in the filing of the application and that Mr. Leibensperger was mailed the application papers, including the specification, claims and drawings, but expressly refused to sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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MICHAEL LEIBENSPERGER
26 CLAREMON ST., APT. 2
SOMERVILL, MA 02144

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MAR 0 2 2004
OFFICE OF PETITIONS

In re Application of :
Rosenstock, Dykiel, Leibensperger & Bhandaru :
Application No. 10/676,484 :
Filed: September 30, 2003 : LETTER
Attorney Docket No. IS01408MCG :
For: INFINIBAND ARCHITECTURE SUBNET :
REPLICATED DATABASE ELEMENTS

Dear Mr. Leibensperger:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: MOTOROLA, INC.
CORPORATE LAW DEPARTMENT - #56-238
3102 NORTH 56TH STREET
PHOENIX AZ 85018

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Sep. 15, 2005

TO SPE OF : ART UNIT 2823 (*Exr. is Michelle Estrada*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,916,734

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please see the IFW code cocin – re: exr title change not in exr's amendment or the interview summary

Thank You For Your Assistance

sp
Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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 only claims remaining in the application were drawn to the contact forming method. No device claims remained in the case. Consequently the title should reflect the claimed ~~device~~ method.

Mark S Sml
SPE

2825
Art Unit

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KIRSCHSTEIN, OTTINGER, ISRAEL
& SCHIFFMILLER, P.C.
489 FIFTH AVENUE
NEW YORK NY 10017

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DEC 23 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Vladi Parpajola :
Application No. 10/676,500 :
Filed: October 1, 2003 :
Attorney Docket Number: 03-2987/DeDom :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed December 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned May 10, 2004, for failure to timely reply to the Notice to File Missing Parts mailed on March 9, 2004, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained prior to the abandonment. Accordingly, a Notice of Abandonment was mailed December 3, 2004.

Receipt of the replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 is acknowledged.

The application is being forwarded to the Office of Initial Patent Examination for further pre-examination processing.

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

---

[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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KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of	:
Mohamed K. Diab, et al.	: DECISION ON PETITION
Application No.: 10/676,534	: UNDER 37 CFR 1.183
Filed: September 30, 2003	: SEEKING WAIVER OF
For: Signal Processing Apparatus	: REQUIREMENTS UNDER
Attorney Docket No. MASIMO.7CP1C11	: 37 CFR 1.98 and 1.52

This is a response to a petition under 37 CFR 1.183 mailed on June 15, 2005, concurrently with an Information Disclosure Statement (IDS) in the above referenced application. The § 1.183 petition requests waiver of the rules for Information Disclosure Statements under 37 CFR 1.98. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 and § 1.52 provisions which require filing a paper copy of each reference cited in an IDS. The request for waiver is made in view of the need to file the same IDS copies in multiple applications relating to different aspects of a particular invention. A paper copy of the references was filed in application no. 10/779,033 on June 2, 2005.

The petition under 37 CFR 1.183 requesting relief to file a single paper copy of IDS references is **GRANTED** to the extent set forth below.

The instant application filed under 35 U.S.C. 111 is one of 12 U.S. applications related to patent families in litigation. The references cited in the IDS are references arising from the litigation.

Applicants' submission of an IDS is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information material to patentability, which includes information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an IDS in the manner prescribed by 37 CFR 1.97 and 1.98.

37 CFR 1.98 requires that any IDS provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. All papers filed in an application are required to be in paper by 37 CFR 1.52(a) unless they are under filed under some other provision of the rules or a waiver of the rules. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP § 609 (8th Ed. Rev. 2, May 2004), pages 600-122 and 600-123.

Applicants note that the instant application is one of 12 applications that are part of patent families or claim benefit of a parent patent in the same litigation.

Rather than be required to submit, via a paper copy, five boxes of foreign patent and non-patent literature references in each of 12 applications, Applicants seek to have:

(1) The earlier filed single paper copy in application no. 10/779,033 of each IDS citation fulfill the requirement for a paper copy in all 12 applications;

(2) One application (application no. 10/779,033) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of the references to be submitted in only the "holding" application; and

(3) The other related pending U.S. applications (the "bulk filing" applications), be exempt from requiring a separately filed paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, and a copy of the Form 1449 (or equivalent). The Office may choose at its option to provide electronic access or provide a copy of each reference in the "bulk filing" applications.

A review of Office records indicates that the instant application and the '033 application are both Image File Wrapper (IFW) applications. Also, since the '033 application has been published all the copies of the references in IFW are readily available to the public. Accordingly, the Office can provide an image copy of all of the IDS references from the holding application to the instant application.

Applicants' set of petitions appears to contain typographical errors noted below; while none of these errors affect the merit of any of the petitions, Applicants are requested to correct their records so as to prevent further confusion. First, the petition for application no. 09/111,604 is erroneously captioned as "09/110,604." Additionally, each petition incorrectly cites application no. 10/677,050 as "10/667,050" and incorrectly cites application no. 11/003,231 as "11/003,321."

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicants be spared the necessity of submitting duplicative paper copies of foreign patent and non-patent literature references in 12 applications, but also the Office would benefit from not having to handle and store the duplicative sets of

copies. While there may be some negative effects from the Office's point of view in terms of making the copies available in different applications from one paper copy, on balance, there is seen to be sufficient benefit to justify waiver in this instance for all the applications filed.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below. Once past the initial IDS submission, the petition does not propose the waiver to apply to updates and no waiver is granted for updates of the IDS.

The § 1.98(a)(2) requirement for (the submission of) a copy of each foreign patent and non-patent literature IDS citation in a bulk filing application will be waived in the bulk filing applications only for non-patent literature and foreign patents provided that the following five conditions are complied with:

1) One paper copy of each foreign patent and non-patent literature IDS citation has been submitted to the Office in the concurrently filed IDS in the holding application.

2) The information cited in each of the bulk filing applications is or has also been cited in the holding application.

Note: Applicants are not required to cite in each bulk filing application every item of information that is cited in the holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

Also note: A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the holding application.

3) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), if submitted in the holding application, must also be supplied in each bulk filing application where the citation is made.

4) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicants may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

5) There will be no waiver of any aspects of 37 CFR 1.97 in any application after allowance or final rejection of that application.

Any correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

By FAX: (571) 273-8300
Attn: Office Patent Legal Administration/Samuel Broda

Telephone inquiries should be directed to Samuel Broda at (571) 272-7711.

Samuel Broda for

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUN 0 1 2006

John M. Grover
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of: DAIB et al.	:
Appl. No.: 10/676,534	: DECISION ON PETITION
Filed: September 30, 2003	: Under 37 CFR 1.59
For: SIGNAL PROCESSING APPARATUS	:

This is a response to the petition under 37 CFR 1.59(b), filed on December 19, 2005 by which petitioners request to expunge information from the above identified application.

The decision on the petition is will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in the Information Disclosure Statement, filed December 19, 2005 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to the applicant.

The document in question will not be available to the public during prosecution.

Frederick R. Schmidt, Director
Technology center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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John M. Grover
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

NOV 29 2006

In re Application of: DAIB et al.	:
Appl. No.: 10/676,534	: DECISION ON PETITION
Filed: September 30, 2003	: Under 37 CFR 1.59
For: SIGNAL PROCESSING APPARATUS	:

This is a response to the petition under 37 CFR 1.59(b), filed on December 19, 2005 by which petitioners request to expunge information from the above identified application.

The petition is granted.

Petitioner requests that documents listed on the Information Disclosure Statement filed December 19, 2005 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17 (g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life on any patent which issues on the above-identified application.

The expunged material has been removed from the official file. The material has been shredded.

Petition to expunge GRANTED.

Karen M. Young
for Frederick R. Schmidt, Director
Technology center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,534	09/30/2003	Mohamed K. Diab	MASIMO.7CP1C11	8330

20995 7590 04/28/2009
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER
WINAKUR, ERIC FRANK

ART UNIT	PAPER NUMBER
3768	

NOTIFICATION DATE	DELIVERY MODE
04/28/2009	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):

jcartee@kmob.com
eOAPilot@kmob.com

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090422

DATE : April 22, 2009

TO SPE OF : ART UNIT 3768

SUBJECT : Request for Certificate of Correction on Patent No.: 7254433

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:

/LONG V LE/
Supervisory Patent Examiner.Art Unit 3768

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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
10/676,539	09/30/2003	2124	918	42P11895C	6	13	5

CONFIRMATION NO. 7664

CORRECTED FILING RECEIPT

OC000000012038148

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

Date Mailed: 03/05/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Rongzhen Yang, Shanghai, CHINA;

Domestic Priority data as claimed by applicant

This application is a CON of 09/964,957 09/27/2001

Foreign Applications

If Required, Foreign Filing License Granted: 12/12/2003

Projected Publication Date: 03/25/2004

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for varying-radix numeration system

Preliminary Class

708

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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P.O. Box 1450
Alexandria, VA 22313-1450
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CAMPBELL STEPHENSON ASCOLESE, LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN TX 78759

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of
WILKINSON, et al.
Application No. 10/676,541
Filed: October 1, 2003
Attorney Docket No. MIR0004US

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 2, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HULSEY IP INTELLECTUAL PROPERTY
LAWYERS, P.C.
1250 S. CAPITAL OF TEXAS HIGHWAY
BUILDING THREE, SUITE 160
AUSTIN TX 78746

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OFFICE OF PETITIONS

In re Application of	:	
William Shaw	:	
Application No. 10/676,544	:	DECISION GRANTING PETITION
Filed: October 1, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. H20G001USO	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 19, 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 (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Non-final Office action of August 22, 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 $225 extension of time submitted with the petition on June 19, 2006 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 3751

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/676,547	09/30/2003	2811	916	42P16839	12	22	3

CONFIRMATION NO. 7675

UPDATED FILING RECEIPT

OC000000013832625

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 09/17/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Eric Pike, Chandler, AZ;

Power of Attorney: The patent practitioners associated with Customer Number **45209**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/10/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/676,547

Projected Publication Date: 03/31/2005

Non-Publication Request: No

Early Publication Request: No

Title

Power delivery using an integrated heat spreader

Preliminary Class
257

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Paper No.

PEPE & HAZARD, LLP
225 ASYLUM ST.
HARTFORD, CT 06103

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JUN 26 2006
OFFICE OF PETITIONS

In re Application of	:	
Zeygerman et al.	:	DECISION ON
Application No. 10/676,553	:	PETITION
Filed: October 1, 2003	:	
Atty Docket No. TAI-14/30536	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT," filed May 1, 2006.

The above-identified application became abandoned for failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability mailed August 17, 2005. A Notice of Abandonment was mailed on April 26, 2006.

Applicants promptly filed the instant petition on the basis that applicants previously submitted formal drawings on October 25, 2004, and by Office action mailed March 22, 2005, the examiner accepted the drawings. Further, applicants responded to the Notice of Allowability, timely filing on August 31, 2005 a statement that the formal drawings had previously been filed and accepted.

The petition includes a copy of applicants' response to the Notice of Allowability and a copy of the facsimile confirmation of that response. This evidence is persuasive that applicants timely responded, as stated, to the Notice of Allowability. Further, the examiner has confirmed that the requirement for corrected drawings set forth in the Notice of Allowability was made in error, no corrected drawings are required and the drawings filed October 25, 2004 are, as stated by applicants, accepted by the examiner. It is concluded that under the

circumstances withdrawal of the holding of abandonment is warranted.

In view thereof, the Notice of Abandonment mailed April 26, 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.

Technology Center AU 1725 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and thereafter, forward the application to the Office of Patent Publication for processing into a patent.

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

HEWLETT PACKARD COMPANY
P O BOX 272400
3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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OCT 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Lowell et al.	:	DECISION ON PETITION
Application No. 10/676,557	:	
Filed: October 1, 2003	:	
Atty Docket No. 200208633-1	:	

This is in response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION filed March 13, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a response to the non-final Office action mailed April 17, 2007. This Office action set a three 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 July 18, 2007. A courtesy Notice of Abandonment was sent on February 8, 2008.

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 at the correspondence address of record.

A review of the application file reveals no irregularities in the mailing of the Office action mailed April 17, 2007[1]. Thus, there is a strong presumption that the correspondence was properly mailed to the applicants at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, 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 practitioner states that pursuant to the statement of patent paralegal Kraft the Office action was not received at the correspondence address of record and that a search of the practitioner's records, including any file jacket or equivalent, and the application contents, indicates that the Office action was not received. In addition, practitioner has submitted a statement of paralegal Kraft and a copy of the mail log and image file wrapper for the application showing where the Office action would have been entered had it been received. Practitioner should state that he searched the file jacket and mail log; however, his presentation of those items on this

---

[1] It is noted that Office records indicate that effective December 1, 2007 practitioner began receiving communications in this application electronically.

petition is tantamount to representing to the Office that he has searched those records and found that the Office action is not present.

Petitioner has adequately supported his claim of non-receipt.

In view thereof, the notice of abandonment and holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2191 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-sending of the non-final Office action mailed April 17, 2007 and for restarting of the period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MAY 11 2004

In re Application of Lenoid G. Kronfeld Serial No. 10/676,561 Filed: September 30, 2003 For: VIBRATION REDUCING DEVICE ARCHERY BOWS	:	DECISION ON PETITION TO WITHDRAW AS ATTORNEY

By papers filed on March 17, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the correspondence address for this application is:

Law Office of Donald T. McPhail
P.O. Box 223
Raynham Center, MA 02798

E. Rollins-Cross, Director
Technology Center 3700

Stradling, Yocco, Carlson & Rauth
660 Newport Center Drive, Suite 1600
P.O. Box 7680
Newport Beach, CA 92660

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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LAW OFFICE OF DONALD T. MCPHAIL
P.O. BOX 223
RAYNAHAM CENTER, MA 02798

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FEB 1 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Lenoid G. Kronfeld	:	DECISION ON PETITION
Application No. 10/676,561	:	TO WITHDRAW
Filed: September 30, 2003	:	FROM RECORD
For: VIBRATION REDUCING DEVICE FOR ARCHERY BOWS	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 19, 2005.

The request is **NOT APPROVED** as moot.

While an attorney or agent at Stradling Yocca Carlson & Rauth submitted the above-identified application, a review of the official file record indicates that on April 30, 2004, Brian F. Swienton and those practitioners associated with Customer No. 31,278 filed a request for withdrawal and request the Office send correspondence to the above-listed address. The request was granted on May 11, 2004. However, Donald T. McPhail was not given power of attorney. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

All future communications from the Office will be directed to the above-listed address until otherwise notified by a registered practitioner giver power of attorney in this application, an assignee, or the applicant. See 37 CFR 1.33(a)(2).

This matter is being referred to Publishing Division.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,568	09/30/2003	Trudee Klautky	11.030011US	7905

41696 7590 08/19/2009
VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga, CA 95070

EXAMINER
ALEXANDER, LYLE

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
08/19/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Mailed: AUG 19 2009

In re application of	:	
Trudee Klautky et al.	:	DECISION ON
Serial No.10/676,568	:	PETITION
Filed: September 30, 2003	:	
For: AUTOMATED CYTOLOGICAL SAMPLE CLASSIFICATION		

This is a decision on the PETITION UNDER 37 CFR 1.144 TO REMOVE THE REQUIREMENT FOR RESTRICTION FILED MARCH 27, 2009.

DECISION

Given the cancellation of all previously withdrawn claims in the amendment filed June 09, 2009; the petition is rendered moot.

The petition is **DISMISSED.**

/Gregory L Mills/
Gregory L Mills
Acting Director, Technology Center 1700
Chemical and Materials Engineering

VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga CA 95070

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APPLE COMPUTER, INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS CA 95618-7759

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Patent No. 7,107,442 :
Issue Date: September 12, 2006 :
Application No. 10/676,573 :
Filed: September 30, 2003 :
Attorney Docket Number: APL-P3152 :

ON PETITION

This is a decision on the petition, filed March 8, 2007, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about September 12, 2006, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

As the petition fee of $400.00 has been received, the petition is granted.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Publishing Division at (703) 308-9250.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax – (571) 273-9937)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061115

DATE : November 15, 2006

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction on Patent No.: 7,066,955

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 16, 2010

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: 10676589
Patent No.: 7182525

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-C
Palm Location 7580

Certificates of Correction Branch

703-756-1573

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X	**Approved**	**All** changes apply.
❑	**Approved in Part**	Specify below which changes **do not** apply.
❑	**Denied**	State the reasons for denial below.

Comments: The Request for Certificate of Correction is for the purpose of correcting typographical errors, no new matters.

/UYEN-CHAU N. LE/ — SPE

2874 — Art Unit

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Timothy E. Nauman
Fay, Sharpe, Fagan, Minnich & McKee, LLP
7th Floor
1100 Superior Avenue
Cleveland OH 44114-2518

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OFFICE OF PETITIONS

In re Application of
Brian Davis, Gary Kochis and E. Kent Miller
Application No.10/676,607
Filed: October 1, 2003
Attorney Docket No. AGTZ 2 00047
Title of Invention: FUEL PUMP MONITORING SYSTEM AND ASSOCIATED METHOD

DECISION

This is in response to the petition under 37 CFR 1.47(a) filed April 8, 2004 , certificate of mailing April 6, 2004.

Petitioner has shown that non-signing inventor Davis 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. Further correspondence was forwarded to the non-signing inventor's representative Michael Ellis. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

The address provided in the declaration is presumed to be non-signing inventor's last known address. If this is not correct petitioner is obligated to inform the Office.

A petition fee in the amount of $130.00 is required. Accordingly deposit account 06-0308 has been charged the petition fee.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this

application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Paper No.

Pearne and Gordon, LLP
1801 East 9th Street
Suite 1200
Cleveland, OH 44114-3108

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APR 2 0 2004
OFFICE OF PETITIONS

In re Application of	:	
Toby Holden, et al.	:	
Application No. 10/676,615	:	ON PETITION
Filed: October 1, 2003	:	
Attorney Docket No. WDO 34980	:	

This is in response to the petition under 37 CFR 1.47(a), filed February 23, 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 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Thomas V. Lozito
11621-B James Watt Drive
El Paso, TX 79936

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APR 2 0 2004
OFFICE OF PETITIONS

In re Application of
Toby Holden; Brandon Moore; Thomas Lozito; and David Evans
Application No. 10/676,615
Filed: October 1, 2003
For: SELF-POWERED MOTORIZED WINDOW AWNING

Dear Mr. Lozito:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Marianne E. Morgan
Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Pearne and Gordon, LLP
1801 East 9th Street, Suite 1200
Cleveland, OH 44114-3108

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ABBOTT CARDIOVASCULAR SYSTEMS INC./BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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JAN 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Chow et al.	:	
Application No. 10/676,616	:	DECISION ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. 5618P3611	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed April 15, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 16, 2009. A Notice of Abandonment was mailed on November 24, 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 3767 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Herbert Bachler	: DECISION ON REQUEST FOR
Patent Number	: 7639827	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/676,629	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/01/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1167** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 05/18/2010

Applicant : Herbert Bachler
Patent Number : 7639827
Issue Date : 12/29/2009
Application No : 10/676,629
Filed : 10/01/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1207** 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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KOESTNER BERTANI LLP
18662 MACARTHUR BLVD
SUITE 400
IRVINE, CA 92612

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JUN 22 2006

Technology Center 2100

In re Application of: WILKINSON, et al.
Application No. 10/676,637
Filed: 1 October 2003
For: DETERRING NETWORK INCURSION

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on Applicant's petition filed 23 January 2006, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination.

The Petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In this case, the petition fails to adequately meet the requirements (b) and (e) as set forth supra. With respect to requirement (b), Petitioner should state the instant application "presents all claims directed to a single invention". Responsive to requirement (e), applicant must provide a "detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references." Petitioner should ensure that the above discussion is directed to *how the language of each of the independent claims are specifically distinguishable and patentable from the relevant prior art references.*

The petition filed 23 January 2006 fails to properly discuss **claimed limitations** with respect to the references in accordance with the requirements of 37 CFR 1.111 (b) and (c). In the discussion of the references, Petitioner alludes to some claim features to distinguish each of the independent claims from the prior art in the identified references. For example, in dealing with the Connary reference, the petition asserts that "determining a response . . . requires more information than is available from examining that given packet and determining whether the source address is a threat" which makes "claims 1, 42, 57 and 72" distinguishable over the reference, however, this recitation in fact is not what the claim states nor congruous with it. The detailed discussion must show, for each independent-claim, actual limitations/language from each independent claim that distinguish over each given reference in order to specify "how the claimed subject matter is patentable over the references."

To "make special" an Application under MPEP § 708.02(VIII), a petition is required to provide a **detailed discussion that includes identifying claim limitations with particularity for each independent-claim** that shows how the claimed invention distinguishes over the relevant teachings of each reference. Specific claim language/limitations cannot be substituted or paraphrased as such may misrepresent the case. The detailed discussion must recite and use the precise claim language/limitations to adequately and validly compare Applicant's invention with the prior art references.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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APR 2 4 2007

Technology Center 2100

Mary Jo Bertani
KOESTNER BERTANI LLP
1924 Galaxy Drive
Newport Beach, CA 92660

In re Application of: WILKINSON, et al.
Application No. 10/676,637
Filed: 1 October 2003
For: DETERRING NETWORK INCURSION

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the refiled petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on August 22, 2006 of the original petition filed January 23, 2006 which was dismissed on June 22, 2006.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The dismissal decision stated that the original the petition fails to adequately meet the requirements (b) and (e) as set forth supra. Those deficiencies have been corrected.

The Petition to Make Special is hereby **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The period form response continues to run from the April 2, 2007 restriction requirement. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Tod Swann
Quality Assurance Specialist
TC 2100

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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

Mail Date: 04/20/2010

Applicant	: Steven F. Borsand	: DECISION ON REQUEST FOR
Patent Number	: 7668767	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/676,641	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/01/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1840** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Technology Center 2100

SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

In Re Application:	:	
Michael T. Laundy	:	
Appl No. 10/676,642	:	WITHDRAW FROM ISSUE
Filed: October 01, 2003	:	FEE NOT PAID
Attorney Docket No.: 2436	:	

For: METHOD AND SYSTEM FOR DYNAMIC VARIATION OF ORIGINAL MESSAGE LENGTH IN A REPLY MESSAGE

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(a).

The above-identified application is withdrawn from issue before payment of the issue fee to determine patentability.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Paul Sewell
Acting Director, Technology Center 2100
Computer Architecture, Software
And Electronic Commerce

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OCT 25 2005

In re Application of: Kim
Appl. No.: 10/676,643
Filed: October 1, 2003
For: Apparatus and Method for Slurry Flow Control

: DECISION ON PETITION

This is a decision on the petition filed on March 28, 2005 by which petitioners request supervisory review of, and withdrawal of, the examiner's election of species requirement as set forth on September 24, 2004, traversed by petitioners on October 26, 2004, and defended but *not made final* in the Office action of December 2, 2004. As the examiner's action of December 2, 2004 withdrew non-elected claims from prosecution, it is being construed as issuing a final restriction requirement in order to provide for consideration of the instant petition. The petition is considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is granted.

Review of the application and of the claims shows that the claimed invention is an apparatus/method to control slurry flow in a chemical mechanical polishing apparatus. Two embodiments appear to be disclosed. The first embodiment, shown in figures 2-4 includes (in short) (A) a slurry supply unit, (B) a photo image sensor, (C) a slurry measuring unit, and (D) a slurry flow control unit. Paragraph 21 suggests that a diluent solution may be added in this embodiment. The second embodiment, shown in figures 5-6, includes the all and exactly the same structure, adding only (E) a diluent solution supply unit. The disclosure teaches the diluent is supplied so that (B) the photo image sensor can accurately measure the cross-sectional image for slurry having a high concentration of particles (paragraph 30, paragraph 34). Therefore, element (E) enhances the operation of element (B). Originally filed independent claims 1 and 4 defined the apparatus/method as comprising elements (A, B, C, D) while independent claims 2 and 5 defined the apparatus/method as comprising (A, B, C, D, E).

The examiner required an election of species between the embodiments represented by Figures 4 and 6. The requirement translates to alleged species 1 defined by claims 1 and 4 and alleged species 2 defined by claims 2, 3 and 5-10. Petitioner provisionally elected, *with traverse*, species 1. Petitioner's traverse was unpersuasive in the examiner's view and applicant received an action on the merits of claims 1 and 4 with the remaining claims withdrawn from consideration. Petitioner's response to the Office action on the merits included a cancellation of claims 1 and 4 and the instant petition for relief from the election of species requirement.

The bulk of Petitioner's position that the election of species is procedurally improper in that it fails to meet the requirements of explaining why the inventions as claimed are either independent or distinct and fails to address the issue of serious burden upon the examiner. Respectfully, these

points are not well taken in that these requirements are necessarily set out in the election of species requirement and were[1] only specifically discussed by examiners when requiring an applicant to restrict between distinct inventions. Requirements for restriction between distinct inventions (related as disclosed) are described in MPEP 806.05-806.05(i) and necessarily require justification. However, MPEP 808.01(a) proscribes the definition of species as "Where there is no disclosure of relationship between species (MPEP 806.04(b)), they are independent inventions and election to one invention following a requirement for restriction is mandatory even though applicant disagrees with the examiner. There must be a patentable difference between the species as claimed. See MPEP 806.04(h). Since the claims are directed to independent inventions, restriction is proper pursuant to 35 USC 121 and it is *not necessary to show a separate status in the art or separate classification*(emphasis added). Therefore, arguments to the procedural failure of an election of species requirement for not explaining the relation between inventions or providing an allegation of serious burden are not persuasive here.

Petitioner also maintains traversal of the requirement for election of species on a substantive issue in that he points out the claims as presented are not mutually exclusive. This point was not discussed or countered by the examiner in the response to traversal and as considered herein is found persuasive.

In order for species of an invention to be present as claimed, the species must be patentably distinct from each other and the claims to be restricted to different species must be mutually exclusive. As correctly opined by Petitioner, the general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitation which under the disclosure are found in a first species *but not in a second*, while a second claim recites limitations disclosed *only* for the second species and *not* for the first (MPEP 806.04(f)). When comparing the disclosure/claims herein using the shorthand outlined above one finds alleged species 1 (A,B,C,D) with a disclosure suggesting E, and alleged species 2 (A,B,C,D,E). It is clear that the claims fail to pass muster under the general test and are not mutually exclusive.

It appears as though the application was originally filed with claims of varying scope defining the invention rather than any disclosure and claiming of independent or distinct inventions. Applicant has invented a chemical-mechanical polishing apparatus with the improvement of (broadly) a combination including element B for detecting slurry concentration, and (specifically) the same combination also including element E added to enhance element B's function. The fact that applicant chose to describe the invention in the specification using different figures and designating one as 'embodiment 1' and one as 'embodiment 2' does not transform the disclosure into multiple inventions capable of supporting separate patents. Viewed from a different approach, had applicant only presented claims to ABCD and after examination applicant amended the claims to recited ABCDE, this would have been viewed as a narrowing amendment to overcome prior art and not the presentation of a claim to an independent or distinct invention.

---

[1] It is noted that the most recent version of the MPEP dated August 2005 has been revised to include a requirement for the examiner to specifically address the issue of serious burden should either an election of species between independent inventions or a restriction between independent or distinct inventions be made. This however was not the procedure proscribed by the MPEP at the time of issuance of the original requirement herein.

For the reasons outlined above, the election of species requirement promulgated and construed as being made final is not in accordance with proper Office procedure. Accordingly, it is hereby vacated.

As a further procedural note, Petitioner properly and timely responded to the first office action with the amendment and petition of March 28, 2005. The notice of non-responsive amendment mailed by the Office on July 1, 2005 was premature as the disposition of the application was contingent upon this petition decision. As this petition grants Petitioner relief from the election of species requirement, the amendment presented March 28, 2005 is deemed responsive and the notice of non-responsive amendment also hereby vacated. The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3723 who will have the examiner promulgate an action on the merits of the presently pending claims not inconsistent with this Decision. Such can not be considered a shift of invention when in fact only one invention was originally claimed.

PETITION GRANTED

Frederick R. Schmidt, Director
Technology Center 3700

James A. Flight
HANLEY, FLIGHT & ZIMMERMAN, LLC
Suite 4220
20 North Wacker Drive
Chicago, Illinois 60606

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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
10/676,655	09/30/2003	2632	1512	85379.022034	5	53	5

CONFIRMATION NO. 8969

CORRECTED FILING RECEIPT

OC000000011791956

Robert J. Ward
Hunton & Williams LLP
Energy Plaza, 30th Floor
1601 Bryan Street
Dallas, TX 75201-3402

Date Mailed: 02/04/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Roger L. Fischer, Dallas, TX;
Russell B. Schultz, Colcord, OK;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/415,070 09/30/2002

Foreign Applications

If Required, Foreign Filing License Granted: 12/19/2003

Projected Publication Date: 04/01/2004

Non-Publication Request: No

Early Publication Request: No

Title

Outage notification device and method

Preliminary Class

340

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the 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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Joseph S. Tripoli
THOMSON Licensing Inc.
Two Independence Way
Post Office Box 5312
Princeton NJ 08540-5312

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JAN 26 2007

OFFICE OF PETITIONS

In re Application of

Doyen, et al.

Application No. 10/676,663

Filed: October 1, 2003

Attorney Docket No. PF020219

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed December 11, 2006.

The petition is **granted**.

This application was held abandoned June 22, 2006, after no reply was received to the non-final Office action mailed March 21, 2006, which set a shortened statutory period for reply of three months from its mailing date. A response was not received within the allowable period and the application became abandoned on June 22, 2006. A Notice of Abandonment was mailed on December 1, 2006. Petitioner maintains that the non-final Office action was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2629, GAU 2629 for further processing, including re-mailing of the non-final Office action and resetting of the time period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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
10/676,672	09/30/2003	3682	1132	STL 3263	10	20	6

CONFIRMATION NO. 8225

UPDATED FILING RECEIPT

OC000000011870071

36521
MOSER, PATTERSON & SHERIDAN LLP/
SEAGATE TECHNOLOGY LLC
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY, NJ 07702

Date Mailed: 02/10/2004

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)

Anthony Joseph Aiello, Aptos, CA;
Klaus Dieter Kloeppel, Watsonville, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/19/2003

Projected Publication Date: 03/31/2005

Non-Publication Request: No

Early Publication Request: No

Title

Fluid dynamic bearing configured with an orbital ring for higher efficiency

Preliminary Class

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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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.

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NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Brian C. Remy
HOFFMANN-LA ROUCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY, NEW JERSEY 07110

In re Application of	:
KROPSHOFER et al	:
Serial No.: 10/676,675	:Decision on Petition
Filed : October 1, 2003	:
Attorney Docket No.: 21412	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on August 4, 2006 requesting withdrawal of the restriction requirement. The delay in acting upon this petition is regretted.

BACKGROUND

On March 10, 2006, the examiner mailed a restriction requirement in which the original claims 1-40 were divided into 56 groups. Part of this restriction requirement required selection of a specific sequence for examination.

On April 4, 2006, Applicants elected Group I (Claims 1-6 and 22-30) and SEQ ID NO: 1 with traverse.

On July 20, 2006 the examiner considered the traversal, made the restriction requirement final and mailed to applicants a non-final Office action, in which Group I (Claims 1-6 and 22-30) and SEQ ID NO: 1 were searched and examined on the merits.

On August 4, 2006, applicants filed this petition to request that the Office withdraw the restriction requirement.

On 6 November 2006, applicants filed an extension of time.

As of 12 March 2007, the Office has received no response to the Office action mailed 20 July 2006, accordingly, a notice of abandonment was prepared.

DISCUSSION

The petition and file history have been carefully considered. The petition sets forth four issues, requesting rejoinder of peptides, rejoinder of Group I and II, consideration of linking claims and consideration of independent and distinct inventions. These will be addressed in turn.

A. Rejoinder of Peptides

The petition filed August 4, 2006 requested the rejoinder of SEQ ID NOs: 1-4 as one group, SEQ ID NOs: 5-6 as one group; SEQ ID NOs: 7-8 as one group; SEQ ID NO: 9 as one group; SEQ ID NOs: 10-11 as one group; SEQ ID NOs: 12-13 as one group; and SEQ ID NO: 21 as one group. The petition identified the third group as containing SEQ ID Nos 7-9, however, the fourth group contains SEQ ID NO: 9. Thus, the argument has been interpreted to be requesting SEQ ID NO: 7-8 to be placed in one group.

The arguments contend that there is no serious burden to combine certain SEQ ID NOs into one group. As clearly pointed out in the petition on page 7 and the specification on page 44, SEQ ID NOs 1-4 are overlapping in scope. SEQ ID NO: 1 is position 202-217 of Vimentin; SEQ ID NO: 2 is position 203-217; SEQ ID NO: 3 is position 203-216; and SEQ ID NO: 4 is position 202-215. The other proposed groups by applicant are similarly overlapping and within the scope of each other. A search of the overlapping sequences SEQ ID Nos 1-4 would not create an undue burden in this particular application.

B. Rejoinder of Group I and II

The petition then argues that the antibodies of Group II are inseparable from the peptides of Group I because the antibody claims of Claims 7-9 are dependent on the antigenic peptide of Claim 1. This is not correct. While Claims 7-9 refer back to Claim 1, the antibodies of Claims 7-9 do not further limit the claimed peptides. As provided by 37 CFR 1.75, claims may be presented in dependent form, referring back to and further limiting another claim or claims in the same application. As provided in MPEP 608.01(n)

> "The test for a proper dependent claim is whether the dependent claim includes every limitation of the parent claim. The test is not whether the claims differ in scope. A proper dependent claim shall not conceivably be infringed by anything which would not also infringe the basic claim."

Because the antibodies of Claims 7-9 do not further limit the peptides of Claim 1, claims 7-9 are not considered to be dependant claims, Instead, claims 7-9 merely refers back to a previous claim. The antibody and the peptide do not fall within the same scope; one could infringe upon the antibody of claim 7 without infringing upon the peptide of claim 1

C. Consideration of Linking Claims

The petition correctly cites MPEP 809 for the direction provided for linking claims. However, the instant claim set does not contain a linking claim. A linking claim links two inventions. MPEP 809 specifically states "[l]inking claims and the inventions they link together are usually either all directed to products or all directed to processes (i.e., a product claim linking properly divisible product inventions, or a process claim linking properly divisible process inventions)." Here the two linked inventions would be identified as the peptide and the antibody. The claims do not present any claim(s) which encompasses both of these inventions.

As discussed at length in the restriction requirement, beginning on page 4, the inventions of peptides and antibodies are patentably distinct in that they each have unique structures and functions. Although the polypeptide and the antibody are both proteins, the primary, secondary and tertiary structures are completely different. Furthermore, the polypeptide functions as an enzyme. The antibody, on the other hand functions as a molecule which binds to epitopes. The peptides of Group I are defined in terms of SEQ ID NO: 1, while the antibody of Group II is defined in terms of its binding specificity to a small structure within SEQ ID NO: 1. As pointed out in the restriction requirement, art may be directed to the antibody prior to the discovery and disclosure of the peptide. Similarly, the antigenic peptides may be taught in the art, however an antibody may not be disclosed. Thus, art directed to one of these inventions may not necessarily be art against the other invention. Surely applicant would not accept a rejection directed to the antibody as evidence of the obviousness of the antigenic peptide claim. Nor would applicant likely accept a rejection direct to an antigenic peptide as evidence of the obviousness of an antibody claim.

As indicated in the original restriction requirement, page 9 of restriction mailed March, 10, 2006, applicants were given the opportunity to have the restriction requirement withdrawn by stating clearly on the record that the inventions were not patentably distinct. "Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention." To date, applicants have not availed themselves of this option.

The peptides of Group I and the antibodies of Group II represent patentably distinct inventions and are not linked by any linking claim. Thus, the restriction requirement between these inventions is affirmed.

D. Consideration of Independent and Distinct Inventions

Finally, the petition states that the Director does not have the authority or discretion to restrict inventions that are not both "independent" and "distinct" under 35 U.S.C 121. The petition cites 809.01 for the meaning of "independent". It is noted that the cited passage appears in MPEP 802.01 rather than 809.01. A review of the legislative intent behind the passage of the 1952 Act can be found in MPEP 802 which discusses the meaning of independent" and "distinct".

35 U.S.C. 121 quoted in the preceding section states that the Director may require restriction if two or more "independent and distinct" inventions are claimed in one

application. In 37 CFR 1.141, the statement is made that two or more "independent and distinct inventions" may not be claimed in one application. This raises the question of the inventions as between which the Director may require restriction. This, in turn, depends on the construction of the expression "independent and distinct" inventions.

"Independent", of course, means not dependent, or unrelated. If "distinct" means the same thing, then its use in the statute and in the rule is redundant. If "distinct" means something different, then the question arises as to what the difference in meaning between these two words may be. The hearings before the committees of Congress considering the codification of the patent laws indicate that 35 U.S.C. 121: "enacts as law existing practice with respect to division, at the same time introducing a number of changes." The report on the hearings does not mention as a change that is introduced, the inventions between which the Director may properly require division. The term "independent" as already pointed out, means not dependent, or unrelated. A large number of inventions between which, prior to the 1952 Act, division had been proper, are dependent inventions, such as, for example, combination and a subcombination thereof; as process and apparatus used in the practice of the process; as composition and the process in which the composition is used; as process and the product made by such process, etc. If section 121 of the 1952 Act were intended to direct the Director never to approve division between dependent inventions, the word "independent" would clearly have been used alone. If the Director has authority or discretion to restrict independent inventions only, then restriction would be improper as between dependent inventions, e.g., the examples used for purpose of illustration above.

Such was clearly not the intent of Congress. Nothing in the language of the statute and nothing in the hearings of the committees indicate any intent to change the substantive law on this subject. On the contrary, joinder of the term "distinct" with the term "independent", indicates lack of such intent. The law has long been established that dependent inventions (frequently termed related inventions) such as used for illustration above may be properly divided if they are, in fact, "distinct" inventions, even though dependent.

The petition asserts that "the term 'independent' does not include dependent claims dependent on independent claims and that "no dependent claims should ever be restricted." This assertion does not appear to be supported by the plain language of MPEP 802.01. Rather, 35 USC 121 and the MPEP are directed to independent (unrelated) and dependent (related) inventions and does not speak to the format of individual claims, whether they are drafted in independent or dependent claim format. The specific language states, "the Director has authority or discretion to restrict independent inventions only, then restriction would be improper as between dependent inventions."

DECISION

The petition is **GRANTED–IN-PART** for the reasons set forth above.

Claims 1-6 and 22-30 are under examination. SEQ ID NO: 2, 3, and 4 are rejoined with the SEQ ID NO: 1 already under examination.

SEQ ID NOs: 5-6 are rejoined as one group;
SEQ ID NOs: 7-8 are rejoined as one group;
SEQ ID NOs: 9 will remain one group;
SEQ ID NOs: 10-11 are rejoined as one group;
SEQ ID NOs: 12-13 are rejoined as one group; and
SEQ ID NOs: 21 will remain one group.

The request to withdraw the restriction requirement between Group I and II has been denied.

As of 12 March 2007, it appears that the Office has received no response to the Office action mailed 20 July 2006. Accordingly, the examiner has prepared a Notice of Abandonment. The filing of a petition does not waive applicants' obligation to respond to an Office action within the time period set within.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600
jb/jg

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Lloyd W. Sadler, Esq.
Snell & Wilmer, L.L.P.
Gateway Tower West, Suite 1200
15 West South Temple
Salt Lake City, UT 84101

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JAN 2 6 2005

OFFICE OF PETITIONS

In re Application of
W. Kurt Dobson
Application No. 10/676,676
Filed: October 1, 2003
Attorney Docket No. 4478 P

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed December 13, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on September 30, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request that set forth the projected publication date of April 7, 2005 was mailed December 17, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

This application is being referred to Technology Center Art Unit 3662 for examination in due course.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 2, 2008

TO SPE OF : ART UNIT 3725

SUBJECT : Request for Certificate of Correction for Appl. No 10/676681 patent no6994022

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes do not apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SPE

3725

Art Unit

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Donald F. Haas
Shell Oil Company
Legal – Intellectual Property
P. O. Box 2463
Houston, TX 77252-2463

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MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of :
John F. Knifton, et al. :
Application No. 10/676,682 : ON PETITION
Filed: October 1, 2003 :
Attorney Docket No. TH1754 (US) :

This is a decision on the petition under 1.78(a)(6), filed October 28, 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 **DISMISSED AS MOOT**.

A petition under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR § 1.76(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application.

The instant pending nonprovisional application was filed on October 1, 2003, and was pending at the time of filing of the instant petition. While a reference to the prior-filed applications was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii).

However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $130 petition fee assessed to petitioner's deposit account will be refunded in due course.

Any questions concerning this decision on petition may be directed to Marianne Jenkins at (571) 272-3223. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the Examiner of Technology Center AU 1621 for appropriate action on the amendment filed October 28, 2004, including consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the prior-filed application.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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MORRISON AND FOERSTER, LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304

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SEP 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
MORRIS, et al.	:	
Application No. 10/676,684	:	DECISION ON PETITION TO
Filed: September 30, 2003	:	WITHDRAW FROM RECORD
Attorney Docket No. PP023354.0001/20366-03300	:	
	:	

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 24, 2005.

The request is DISMISSED as moot.

A review of the file record indicates that the power of attorney to MORRISON AND FOERSTER, LLP has been revoked by the assignee of the patent application on September 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: NOVARTIS VACCINES & DIAGNOSTICS, INC.
CORPORATE INTELLECTUAL PROPERTY-R338
P.O. BOX 8097
EMERYVILLE, CA 94662-8097

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10TH FLOOR
LOS ANGELES, CA 90045

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OFFICE OF PETITIONS

In re Application of	:	
Eli Avihod	:	
Application No. 10/676,685	:	
Filing or 371(c) Date: 09/30/2003	:	
Attorney Docket Number:	:	
MEDIS-65233	:	ON PETITION

This is a decision on the Request to Withdraw Holding of Abandonment, filed September 12, 2006. The petition is properly treated under 37 CFR 1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed December 22, 2005. 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 March 23, 2006. A Notice of Abandonment was mailed August 7, 2006.

Applicant files the instant petition and asserts that a timely reply to the Office action was filed on February 20, 2006. In support of this assertion, Applicant files a copy of the Reply, which includes a Certificate of Mailing under 37 CFR 1.8. The Certificate of Mailing was executed by petitioner herein.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to Technology Center Art Unit 3636 for processing of the Reply, and for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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TROP, PRUNER & HU, P.C.
1616 S. VOSS RD., SUITE 750
HOUSTON, TX 77057-2631

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In re Application of	:	
Lai Theng Chee et al.	:	
Application No. 10/676,686	:	DECISION ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. ITL.2003US (P17250)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed March 22, 2006, which set a shortened statutory period for reply of three (3) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 22, 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 $1540.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2176 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Donald F. Haas
Shell Oil Company
Legal - Intellectual Property
P.O. Box 2463
Houston, TX 77252-2463

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OFFICE OF PETITIONS

In re Application of	:	
Steven E. Brewer, et al.	:	
Application No. 10/676,690	:	ON PETITION
Filed: October 1, 2003	:	
Atty Docket No. TH1778 (US)	:	

This is a decision on the petition, filed October 26, 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 September 30, 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 1621 for further processing of the request for continued examination under 37 CFR 1.114 filed October 26, 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).

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Paper No.

AKA CHAN LLP / CISCO
900 LAFAYETTE STREET
SUITE 710
SANTA CLARA CA 95050

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JUN 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Deng et al.	:	DECISION ON PETITION
Application No. 10/676,708	:	
Filed: October 1, 2003	:	
Attorney Docket No. CISCP835	:	

This is a decision on the Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) filed April 17, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed October 16, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply timely filed and no extension of time obtained, the application became abandoned effective January 17, 2008. The filing of the instant petition precedes the mailing of a courtesy Notice of Abandonment.

The petition includes the required reply, the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required.

It is noted that an extension of time for response within the third month ($1,050) was processed in this application on June 17, 2008. It is unclear of the basis for this filing. No such extension of time is required with this petition. Accordingly, the fee is refundable. A request for refund should be filed with a copy of this decision. Note, to avoid entry of a period of reduction of patent term adjustment pursuant to 37 CFR

1.704(c)(10), any such request should be filed prior to the mailing of a notice of allowance (or if within the permitted time periods, after the issuance of the patent).

Technology Center AU 2623 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the amendment submitted on petition filed April 17, 2008.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Mail Date: 07/15/2010

Applicant	: Yu Deng	: DECISION ON REQUEST FOR
Patent Number	: 7653924	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/676,708	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/01/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1396** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SEP 24 2009

Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111

In re Application of Loc Nguyen et al. Application No. 10/676,723 Filed: September 30, 2003 For: METHOD AND SYSTEM FOR MANAGING DYNAMIC TERMS AND CONDITIONS AND USER INTERACTION	:	DECISION ON PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW FINALITY

This is in response to applicant's Petition filed on August 7, 2009, requesting withdrawal of the finality of the Office action mailed July 9, 2009 as being premature.

The petition is **GRANTED.**

Petitioner alleges that the Final rejection dated July 9, 2009 was premature since this Office action contained a new grounds of rejection not necessitated by Applicant's amendment.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A review of the record indicates that the Office issued a non-final rejection on December 18, 2008 rejecting claims 24-26 under 35 USC 102(b) as anticipated by O'Toole Jr. et al. (US 2001/0037467). On March 18, 2009 Applicant amended independent claim 24 to include only limitations previously present in dependent claims 25 and 26. In the Final rejection dated July 9, 2009, claim 24 was for the first time rejected under 35 USC 102(b) as anticipated by Iannacci (US 2002/0062249), which rejection was not necessitated by Applicant's amendment.

Accordingly, the finality of the July 9, 2009 Office action, but not the action itself, is hereby vacated. The Office action dated July 9, 2009 is now considered to be non-final with the shortened statutory period of THREE (3) MONTHS set in the Office action.

Inquiries should be directed to Eric Stamber, Supervisory Patent Examiner, at 571-272-6724.

Summary: ***Petition Granted***

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

EWS: 9/23/09

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JUL 2 0 2010

Christopher L. Willink
Townsend and Townsend and Crew LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

In re Application of Loc Nguyen et al. Application No. 10/676,723 Filed: September 30, 2003 For: METHOD AND SYSTEM FOR MANAGING DYNAMIC TERMS AND CONDITIONS AND USER INTERACTION	:	DECISION ON PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW FINALITY

This is in response to applicant's Petition filed on March 9, 2010, requesting withdrawal of the finality of the Office action mailed February 17, 2010 as being premature.

The petition is **GRANTED.**

Petitioner alleges that the Final rejection dated February 17, 2010 was premature since this Office action contained a new grounds of rejection not necessitated by Applicant's amendment.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A review of the record indicates that the Office issued a non-final rejection on July 9, 2009 rejecting claims 1 and 4-7 under 35 USC 102(b) as anticipated by Iannacci (US 2002/0062249). On November 9, 2009 Applicant rewrote dependent claim 7 in independent form to include all of the limitations previously presented in claims 1 and 4-7. In the Final rejection dated February 17, 2010, claim 7 was for the first time rejected under 35 USC 103 as unpatentable over Iannacci (US 2002/0062249) in view of Chen (US 6,549,912), which rejection was not necessitated by Applicant's amendment.

Accordingly, the finality of the February 17, 2010 Office action, but not the action itself, is hereby withdrawn. The Office action dated February 17, 2010 is now considered to be non-final with the shortened statutory period of THREE (3) MONTHS set in the Office action.

Summary: ***Petition Granted***

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

EWS: 7/15/10

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FISH & RICHARDSON P.C.
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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Mittal et al.	:	
Application No. 10/676724	:	ON PETITION
Filing Date: 09/30/2003	:	
Attorney Docket Number:	:	
16113-1300001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 11, 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 March 6, 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). Accordingly, the date of abandonment of this application is June 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 2161 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

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JUL 15 2005

OFFICE OF PETITIONS

In re Application of :
David A. Rahdert :
Application No. 10/676,729 :
Filed: October 1, 2003 :
Attorney Docket No. 9542.18427-FOR :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition, filed November 12, 2004, 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 **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 "amendment" as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each

distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3), 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

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DEC 22 2005

OFFICE OF PETITIONS

RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

In re Application of David A. Rahdert, et al. Application No. 10/676,729 Filed: October 1, 2003 Attorney Docket No. 9542.18427-FOR	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3) AND 37 CFR 1.78(a)(6)

This is a decision on the renewed petition, filed July 25, 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.

All requirements being met, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), 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 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 3738 for appropriate action on the amendment submitted July 25, 2005, including consideration by the examiner of the claim under 35 U.S.C. §§ 120, 365(c) and 119(e) for the benefit of the prior-filed applications.

Sherry D. Brinkley
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances Hicks
Frances M. Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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RYAN KROMHOLZ & MANION SC
POST OFFICE BOX 26618
MILWAUKEE WI 53226

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In re Application of	:	
Rahdert, et al.	:	
Application No. 10/676,729	:	DECISION ON PETITION
Filed: October 1, 2003	:	
Attorney Docket No. 9542.18427-FOR	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 17, 2008.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed February 28, 2008. A Notice of Abandonment was mailed on September 10, 2008, stating that no reply had been received.

A review of the application file reveals the presence of an Amendment, filed on September 2, 2008, made timely by obtaining a three month extension of time and by including a Certificate of Mailing dated August 27, 2008. Furthermore, a review of Office records reveals that the Office received the fee for the three month extension of time on September 2, 2008. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to Group Art Unit 3774 for consideration of the Amendment filed September 2, 2008.

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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MORGAN LEWIS & BOCKIUS
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of	:	
Tohru Ishizuya et al	:	
Application No. 10/676,733	:	ON PETITION
Filed: October 2, 2003	:	
Attorney Docket No. 053847-5003	:	

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 April 17, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2873 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : June 2, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Tohru Ishizuya et al
Application No. :10/676,733
Filed :October 2, 2003

The above-identified application has been assigned Patent No. 7,064,884 and an issue date of June 20, 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 20, 2006:

"All reference to Patent No. 7,064,884 to Tohru Ishizuya et al of Japan for OPTICAL ELEMENT, THIN FILM STRUCTURE, OPTICAL SWITCH, AND METHOD OF MANUFACTURING OPTICAL ELEMENT appearing in the Official Gazette of June 20, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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Jason T. Evans, Esq.
WESTERN DIGITAL TECHNOLOGIES, INC.
20511 Lake Forest Drive
E-118G
Lake Forest, CA 92630

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FEB 01 2006

TECHNOLOGY CENTER 2100

In re Application of:
William B. BOYLE, et al.
Application No. 10/676,739
Filed: September 30, 2003
For: REDUCING MICRO-CONTROLLER ACCESS TIME TO DATA STORED IN A REMOTE MEMORY IN A DISK DRIVE CONTROL SYSTEM

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on 04 January 2006, requesting that the shortened statutory period for reply set forth in the Office communication mailed on 25 October 2005 be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

The petition is GRANTED.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record on 03 January 2006. The petition was filed within two weeks of receipt of the Office communication. A substantial portion of the set reply period had elapsed on the date of receipt.

Accordingly, the shortened statutory period that was originally set forth in the Office communication originally mailed on 25 October 2005 is hereby reset to run FROM THE RECEIPT DATE OF 03 January 2006.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone is (571) 272-3613.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

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MOTOROLA, INC.
CORPORATE LAW DEPARTMENT - #56-238
3102 NORTH 56TH STREET
PHOENIX AZ 85018

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OFFICE OF PETITIONS

In re Application of	:
Rosenstock, Dykiel, Lagueux, and Duthie	: DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)
Application No. 10/676,644	:
Filed: 30 September, 2003	:
Atty Docket No. IS01409MCG	:

This is in response to the petition filed under 37 CFR 1.47(a) on 20 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 30 September, 2003, without an executed oath or declaration. Accordingly, on 22 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 20 January, 2004, petitioners filed a declaration naming Harold N. Rosenstock, Richard Dykiel, Richard Lagueux, and Peter Duthie as joint inventors, signed by joint inventor Rosenstock on behalf of himself and the other inventors, the present petition, petition fee, and the late-filing surcharge.

Petitioners state that joint inventors Dykiel, Lagueux, and Duthie cannot be reached or have refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

Copied from 10676644 on 29-03-2004

(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).

In regards to item (1), petitioners have not provided proof that joint inventors Dykiel and Lagueux were ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] The petition states that Kevin D. Wills made a bona fide and diligent attempt to present the application papers to joint inventors Dykiel and Lagueux. However, the petition does not show that a copy of the application papers (specification, claims, drawings, if any, and the declaration) were ever sent or given to joint inventors Dykiel and Lagueux.

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. While petitioners have presented emails from joint inventors Dykiel and Lagueux indicating an unwillingness to join in the filing of the application papsers, both joint inventors must be afforded an

[1] MPEP 409.03(d).

Copied from 10676644 on 29-03-2004

opportunity to review the application papers. Petitioners should sent or give the non-signing inventors a copy of the application papers as specified above at their respective last known addresses with a request that they sign and return the declaration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
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.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Copied from 10676644 on 29-03-2004

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DIW 05-04

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CORPORATE LAW DEPARTMENT - #56-238
3102 NORTH 56TH STREET
PHOENIX AZ 85018

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MAY 19 2004

OFFICE OF PETITIONS

In re Application of	:
Rosenstock, Dykiel, Lagueux, and	:
Duthie	: DECISION ACCOORDING STATUS
Application No. 10/676,744	: UNDER 37 CFR 1.47(a)
Filed: 30 September, 2003	:
Atty Docket No. IS01409MCG	:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 3 May, 2004.

The petition is **GRANTED**.

Petitioners have shown that non-signing inventors Dykiel and Lagueux cannot be found, while joint inventor Duthie has refused to sign the declaration after being presented with the application papers. Specifically, the affidavits of V. Lynn Webb filed with the present renewed petition, and the original petition, establish that attempts were made to locate non-singing Dykiel and Lagueux inventors by mail, however the application papers sent to the inventors were returned as undeliverable and refused, respectively. Additionally, joint inventor Duthie failed to sign and return the declaration after being mailed a copy of the application papers and contacted by telephone and email. Previous communications by email additionally show that Dykiel and Lagueux indicated an unwillingness to sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the renewed petition, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

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The application is being forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Richard A. Lagueux
11 Pinewood Road
Hudson NH 03051-3416

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OFFICE OF PETITIONS

In re Application of
Rosenstock et al.
Application No. 10/676,744
Filed: 30 September, 2003
For: METHOD AND APPARATUS FOR LIMITING STANDBY SUBNET MANAGERS

Dear Mr. Lagueux:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

MOTOROLA, INC.
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Peter Duthie
12 Namara Place
Engadine, New South Wales 2233
AUSTRALIA

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MAY 19 2004
OFFICE OF PETITIONS

In re Application of
Rosenstock et al.
Application No. 10/676,744
Filed: 30 September, 2003
For: METHOD AND APPARATUS FOR LIMITING STANDBY SUBNET MANAGERS

Dear Mr. Duthie:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Richard Dykiel
29 Ethan Allen Drive
Acton MA 01720

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In re Application of
Rosenstock et al.
Application No. 10/676,744
Filed: 30 September, 2003
For: METHOD AND APPARATUS FOR LIMITING STANDBY SUBNET MANAGERS

Dear Mr. Dykiel:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

MOTOROLA, INC.
CORPORATE LAW DEPARTMENT - #56-238
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O'MELVENY & MYERS LLP
610 NEWPORT CENTER DRIVE, 17TH FL
NEWPORT BEACH, CA 92660

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OFFICE OF PETITIONS

In re Application of	:	
David N.S. Hon et al	:	
Application No. 10/676,754	:	ON PETITION
Filed: October 1, 2003	:	
Attorney Docket No. 29290.03	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed September 22, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 23, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

The matter is being referred to Technology Center AU 1654 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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JOSEPH S. HEINO, ESQ.
DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE WI 53202-6613

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OFFICE OF PETITIONS

In re Application of :
Richard D. McGaughey :
Application No. 10/676,769 : ON PETITION
Filed: October 1, 2002 :
Attorney Docket No. 13133.20613 :

This is a decision on the March 24, 2004 REQUEST FOR A CORRECTED FILING RECEIPT, which is treated under 37 CFR 1.53.

The petition is **DISMISSED**.

On January 12, 2004 and February 26, 2004, petitioner requested a corrected filing receipt on the above-identified patent application based on the fact that the filing receipt received failed to reflect the claim to priority from the provisional application filed October 1, 2002, namely Provisional Application No. 60/415,335. On both January 12, 2004 and February 26, 2004, petitioner included copies of the Provisional Application Cover Sheet used when the provisional application was filed. The requests were dismissed in decisions mailed January 21, 2004 and March 18, 2004, respectively. In both instances it was noted that the filing of the non-provisional application was filed September 30, 2002, which was more than one year from the filing date of the provisional application and thus the provisional application could not be claimed as domestic or foreign priority.

Petitioner was advised that if the filing date of the provisional application was incorrect, a request for a corrected filing receipt could not be issued to correct the priority information in the non-provisional application. A separate petition would need to be filed to correct the filing date in the provisional application if that were the case.

However, a review of the record reveals that the non-provisional application incorrectly claimed priority to 60/415,335. The provisional application that should have been referenced is 60/415,336.

While the error in citing the application number of the Provisional Application may have been inadvertent, a request for a corrected filing receipt cannot be granted. Petitioners will have to file a petition under 37 CFR 1.78 to accept an unintentionally delayed claim for priority citing the correct application number of the provisional application, 60/415,336 filed October 2, 2002.

A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application must be accompanied by:

(i) The reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of 37 CFR 1.78 to the prior-filed provisional application, unless previously submitted;

(ii) The surcharge set forth in § 1.17(t); and

(iii) 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.

In view of the above and since the error was not that of the USPTO, no refund is due and none will be issued.

This application is being forwarded to Technology Center 3624 for examination in due course.

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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JOSEPH S. HEINO, ESQ.
DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE WI 53202-6613

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SEP 30 2004

OFFICE OF PETITIONS

In re Application of	:
Richard D. McGaughey	: DECISION ON PETITION
Application No. 10/676,769	: UNDER 37 CFR 1.78(a)(6)
Filed: October 1, 2003	:
Atty Docket No. 13133.20613	:

This is a decision on the petition, filed July 8, 2004, under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(ii) 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 October 1, 2003, within twelve months of the filing date of the prior provisional application No. 60/415,336, filed October 1, 2002, for which priority is claimed. A reference to the prior provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 119(e), the petition to accept an unintentionally delayed claim to benefit to prior-filed provisional Application No. 60/415,336 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filind date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119 and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application , accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (703)305-4497.

This application is being forwarded to Technology Center Art Unit 3624 for appropriate action on the amendment filed July 8, 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. 60/415,336.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SHELL OIL COMPANY
P O BOX 2463
HOUSTON, TX 77252-2463

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OCT 28 2005
OFFICE OF PETITIONS

In re Application of
Joseph Broun Powell, et al.
Application No. 10/676,796
Filed: October 1, 2003
Attorney Docket No. TH1778 02 (US)

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 28, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional Application No. 60/423,097, filed November 1, 2002.

The petition is **DISMISSED AS MOOT.**

The current procedure where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the present case, the Office noted the claim for priority of the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $130 petition fee submitted is unnecessary and will be credited back to petitioner's deposit account in due course.

[1] *Note* MPEP 201.11 (III)(D), pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

Any questions concerning this decision on petition may be directed to Retta Williams at (571) 272-3229. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is referred to the Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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LLOYD W. SADLER, ESQ.
SNELL & WILMER, L.L.P.
GATEWAY TOWER WEST SUITE 1200
15 WEST SOUTH TEMPLE
SALT LAKE CITY, UT 84101

COPY MAILED

MAY 16 2005

OFFICE OF PETITIONS

In re Application of W. Kurt Dobson, et al. Application No. 10/676,798 Filed: October 1, 2003 Attorney Docket No. 4502 P	: : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed December 13, 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 24, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to Technology Center Art Unit 3631 for examination in due course.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KONRAD RAYNES & VICTOR, LLP
ATTN: IBM54
315 SOUTH BEVERLY DRIVE, SUITE 210
BEVERLY HILLS CA 90212

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APR 14 2005

OFFICE OF PETITIONS

In re Application of :
Margaret Ann Bernal et al. :
Application No. 10/676,800 :
Filed: September 30, 2003 :
Attorney Docket No. SVL920030038US1 :

ON PETITION

This is a decision on the petition for corrected filing receipt, filed March 8, 2004, which is treated under 37 CFR 1.10 (c), to correct the filing date to September 30, 2003, rather than the presently accorded filing date of September 26, 2003.

Petitioner alleges that the application was deposited in Express Mail service on September 30, 3003. In support, on March 8, 2004, petitioner supplied a copy of Express Mail Label No. EV326952885US (the same Express Mail number found on the transmittal sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail Label is September 30, 2003.

In view of the above, the petition is granted and since no fee is due, none will be charged to petitioner's deposit account.

The application is being forwarded to the Office of Initial Patent Examination for correction of the **filing date to September 30, 2003** and for issuance of a corrected filing receipt.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF C
United States Patent and Trademark O
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
10/676,804	10/01/2003	2852	1348	CANO:91	8	14	4

CONFIRMATION NO. 3089

UPDATED FILING RECEIPT

OC000000012555928

ROSSI & ASSOCIATES
P.O. Box 826
Ashburn, VA 20146-0826

Date Mailed: 05/06/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Mitsuhiko Sato, Chiba, JAPAN;
Shokyo Koh, Ibaraki, JAPAN;
Takashi Fujimori, Ibaraki, JAPAN;
Hidenori Sunada, Ibaraki, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-290279 10/02/2002

If Required, Foreign Filing License Granted: 12/19/2003

Projected Publication Date: 08/12/2004

Non-Publication Request: No

Early Publication Request: No

Title

Image forming apparatus and control method therefor

Preliminary Class

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Paper No.

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

JUL 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,479,045	:	DECISION ON REQUEST
Biro et al.	:	FOR
Issue Date: January 20, 2009	:	RECONSIDERATION OF
Application No. 10/676,813	:	PATENT TERM ADJUSTMENT
Filed: September 30, 2003	:	and
Atty Docket No. 16113-1312001	:	NOTICE OF INTENT TO ISSUE
/ GP-144-04	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 20, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred nineteen (1219) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred eighteen **(1218)** days.

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 October 1, 2006 and ends on September 4, 2008, the day *before* the RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 705 days, and the B delay considering the 297 days of overlap is 408 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.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application 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 two hundred eighteen **(1218)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,479,045 B1

DATED : **January 20, 2009** **DRAFT**

INVENTOR(S) : Biro 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 810 days

Delete the phrase "by 810 days" and insert – by 1218 days--

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RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

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APR 15 2005

OFFICE OF PETITIONS

In re Application of :
Macoviak et al. :
Application No. 10/676,815 : ON PETITION
Filed: October 1, 2003 :
Attorney Docket No. :
9542.18429-FOR :

This is a decision on the Petition for an Unintentionally Delayed Benefit Claim Pursuant to 37 CFR 1.78(a)(3), filed November 12, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior filed nonprovisional application, number 10/237,261, filed September 5, 2002, which is properly treated as a petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), for correction of the claim of priority in the above-identified application.

This Petition is hereby **dismissed**.

Applicable Law

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(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 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 amendment filed with and included in the petition is unacceptable as drafted. In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR §§ 1.121; 1.52 or 1.4(c).

Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, requiring that amendments include "[a]n instruction, which unambiguously identifies the location," to be amended. Here, applicant simply "requests to amend the benefit claim", and has failed to provide instruction identifying the location to be amended.

The pertinent section of 37 CFR 1.52 states that the claim (in this instance, the claim for priority), must commence on a separate physical sheet.

37 CFR § 1.4(c) requires that "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."

In view of the above, the amendment to add a priority claim, which is physically embedded in the instant petition, is not acceptable.

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and a substitute amendment in compliance with the aforementioned rules; which amends the first line of the specification following the title, and which sets forth the relationship of the prior-filed application(s), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the Attorney Advisor Derek L. Woods at (272) 571-3232.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions

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JUL 21 2005

OFFICE OF PETITIONS

In re Application of :
Macoviak et al. :
Application No. 10/676,815 : ON PETITION
Filed: October 1, 2003 :
Attorney Docket No. :
9542.18429-FOR :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 22, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 365(c) and 119(e) for the benefit of the prior-filed 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 nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and

1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120, 365(c) and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Petitions Attorney Derek L. Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3738 for appropriate action on the amendment submitted April 22, 2005, including consideration by the examiner of the claim for the benefit of the prior filed applications.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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JACKSON & CO., LLP
6114 LA SALLE AVENUE
#507
OAKLAND, CA 94611-2802

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APR 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Eran Steinberg, et al.	:	
Application No. 10/676,820	:	DECISION ON PETITION
Filed: September 30, 2003	:	TO WITHDRAW
Attorney Docket No. FN104-E	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Jackson & Co., LLP has been revoked by the assignee of the patent application on October 16, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: FOTONATION IP DEPT
800 AIRPORT BLVD.
SUITE 522
BURLINGAME, CA 94010

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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Tessera/FotoNation
Patent Legal Dept.
3025 Orchard Parkway
San Jose, CA 95134

Mail Date: 04/21/2010

Applicant	: Eran Steinberg	: DECISION ON REQUEST FOR
Patent Number	: 7676110	: RECALCULATION of PATENT
Issue Date	: 03/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/676,820	: OF WYETH
Filed	: 09/30/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUNG-HUA KUO
ATTORNEY AT LAW
PO BOX 3275
LOS ALTOS CA 94024

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AUG 16 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
William H. Whitted
Application No. 10/676,822
Filed: September 30, 2003
Attorney Docket No. GOOGP007

This is a decision on the petition filed April 7, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned March 3, 2006 for failure to timely pay the issue fee on or before March 2, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment which was mailed April 10, 2006.

The issue fee and petition fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Reiner Hammerich	: DECISION ON REQUEST FOR
Patent Number	: 7584457	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/676,825	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **909** 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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OSI PHARMACEUTICALS, INC.
41 PINELAWN ROAD
MELVILLE NY 11747

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Demuth et al.	:	
Application No. 10/676,832	:	ON PETITION
Filed: October 1, 2003	:	
Attorney Docket No. PBD-00004-D1-CON	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 9, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed August 10, 2005. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 11, 2005. A Notice of Abandonment was mailed February 17, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (1). Before a petition under 37 CFR 1.137(b) can be granted, a response to the Office action mailed on August 10, 2005, must be submitted. A copy of the Office action is enclosed per the request of the petitioner.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

Enclosure: Office action mailed 08/10/05

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.
10/676,832	10/01/2003	Hans-Ulrich Demuth	20488/44-DIV-CON	3776

38724 7590 08/10/2005
OSI PHARMACEUTICALS, INC.
58 SOUTH SERVICE ROAD
MELVILLE, NY 11747

EXAMINER
WEDDINGTON, KEVIN E

ART UNIT	PAPER NUMBER
1614	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	10/676,832	DEMUTH ET AL.
	Examiner	Art Unit
	Kevin E. Weddington	1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 24 November 2003.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-11 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-11 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 _____ 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 11-24-03.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

Claims 1-11 are presented for examination.

Applicants' drawing filed October 1, 2003; and information disclosure statement filed November 24, 2003 have been received and entered.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-11 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-11 of prior U.S. Patent No. 6,500,804 B2.

The present application and the patented application both teaches a method for increasing the capacity of insulin providing cells in an animal comprising administering to said animal a therapeutically effective dose of at least one DP IV enzyme activity effector.

This is a double patenting rejection.

Claims 1-11 are not allowed.

Claims 1-11 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-11 of copending Application No. 10/910,176.

Both applications are claiming the same invention:

A method for increasing the capacity of insulin providing cells in an animal comprising administering to said animal a therapeutically effective dose of at least one DP IV enzyme activity effector.

This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claims 1-11 are not allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin E. Weddington whose telephone number is (571)272-0587. The examiner can normally be reached on 11:00 am-7:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on (571)272-0951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin E. Weddington
Primary Examiner
Art Unit 1614

K. Weddington
July 24, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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41 PINELAWN ROAD
MELVILLE NY 11747

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OFFICE OF PETITIONS

In re Application of	:	
Demuth et al..	:	
Application No. 10/676,832	:	ON PETITION
Filed: October 1, 2003	:	
Attorney Docket No. PBD-00004-D1-CON	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed June 5, 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 Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 1600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Markus Cherdron	: DECISION ON REQUEST FOR
Patent Number	: 7600215	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/676,837	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **976** 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 : 3-17-05

TO SPE OF : ART UNIT 2835

SUBJECT : Request for Certificate of Correction on Patent No.: 6845009

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please check Drawings

Thank You For Your Assistance

C Young
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:

LYNN FEILD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE — 2835 **Art Unit**

OIPE JC112
JAN 3 1 2005
PATENT & TRADEMARK OFFICE

10/676,840

Cofe

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No. 6,845,009 B1	Attorney Docket No. GOOGP014
In re Application of : William H. Whitted	Issued: Jan. 18, 2005
For: Cooling Baffle and Fan Mount Apparatus	Filed: Sept. 30, 2003

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Attn: Certificate of Correction Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 27, 2005.

Signed: _____
Jung-hua Kuo

approved 3/2/5

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT UNDER 37 CFR 1.322

Attn: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate
FEB 0 4 2005
of Correction

Dear Sir:

Attached in duplicate are four (4) Form PTO-1050 (Certificates of Correction) at least one copy of each is suitable for printing. Please make the following corrections:

In the Drawings

On the cover page, please replace the figure with the attached figure.
On drawing sheet 1, please replace FIG. 2 with the attached FIG. 2.
On drawing sheet 2, please replace FIG. 3 with the attached FIG. 3.
On drawing sheet 2, please replace FIG. 4 with the attached FIG. 4.

Please send the Certificate to:

Customer No. 23689
Jung-hua Kuo
Attorney at Law
P.O. Box 3275
Los Altos, CA 94024

Also enclosed with this Request is a copy of the Separate Letter to the Official Draftsman including the two (2) sheets of formal drawings as filed on Dec. 13, 2004. The issue fee was concurrently paid on Dec. 13, 2004.

FEB 0 7 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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O'KEEFE EGAN & PETERMAN LLP
SUITE 200, BUILDING C
1101 CAPITAL OF TEXAS HIGHWAY SOUTH
AUSTIN, TX 78746

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MAY 19 2005

OFFICE OF PETITIONS

In re Application of
Brooks R. Nolan
Application No. 10/676,842
Filed: October 1, 2003
Attorney Docket No. LCOM:006

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed May 4, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 1, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3644 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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JUL 1 4 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Willem Anne Van Haeringen et al :
Application No. 10/676,849 :
Filed: September 30, 2003 :
Attorney Docket No. 2183-6002.1US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 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 March 2, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 3, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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APR 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Van Haeringen et al.	:	DECISION ON PETITION
Application No. 10/676,849	:	and
Filed: September 30, 2003	:	CORRECTION OF DECISION
Attorney Docket No. 2183-6002.1US	:	MAILED JULY 14, 2004

This is a decision on the "PETITION TO PRESERVE A FILING DATE AND PETITION IN RESPONSE TO NOTICE OF INCOMPLETE APPLICATION UNDER 37 C.F.R. 1.53(e)," filed February 16, 2005. Applicants request that the above-identified nonprovisional application be accorded a filing date of September 30, 2003, with no drawings present in the application.

The petition is **GRANTED**.

Application papers in the above-identified nonprovisional application were deposited on September 30, 2003. However, on March 2, 2004, the Initial Patent Examination Division mailed applicants a "Notice of Incomplete Nonprovisional Application," stating that the application papers deposited September 30, 2003 had not been accorded a filing date because the application was deposited without drawings. In addition, the basic filing fee and oath or declaration were missing.

On May 5, 2004, applicants filed a response including the basic filing fee, a Declaration and power of attorney and drawings. Accordingly, the Office accorded the application a filing date of May 5, 2004, the date of filing of the drawings.

In response, applicants filed the instant petition. Applicants state that the drawings were submitted by mistake and unintentionally and that they are unnecessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). (Applicants state that they mistakenly believed the Notice received was a Notice of Missing Parts). Citing MPEP 601.01(f), applicants point out that the application includes at least one method claim, and thus, a drawing is not required.

RELEVANT STATUTES AND REGULATIONS

35 U.S.C. 111(a)(4) provides that:

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

However, as stated in MPEP 601.01(f)

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> a nonprovisional application having at least one claim ..., directed to subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application 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.

And, MPEP § 601.01(g) further provides that:

> If the application is filed without all of the drawing figure(s) referred to in the specification, ..., OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of the drawings described in the specification.

DISCUSSION

A review of the application confirms that as filed on September 30, 2003 the application contained at least one method claim. Pursuant to § 601.01(f), a drawing is not considered essential for a filing date. Thus, the application is entitled to a filing date without drawings present in the application.

However, as the specification in the instant nonprovisional application contained reference to drawing figures 1 through 3 (Brief Description of Drawings, pp. 5-6 of Specification), mailing of a Notice requiring submission of those drawings was appropriate. The Office should have mailed a "Notice of Omitted Items" rather than a "Notice of Incomplete Nonprovisional Application." To the extent that the Notice denied a filing date, the "Notice of Incomplete Nonprovisional Application" mailed March 2, 2004, was mailed in error and is hereby **withdrawn**.

In view thereof, the application as originally deposited without drawings is entitled to a filing date of September 30, 2003.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 20-1469, as authorized.

NOTICE OF VACATING OF DECISION ON PETITION TO REVIVE MAILED JULY 14, 2004

It is further noted that the instant application did not become abandoned for failure to timely file a proper response to the Notice of Incomplete Nonprovisional Application. The Notice mailed March 2, 2004, required that applicants file the statutory basic filing fee; an executed oath or declaration; the late surcharge; and additional claim fees within 2 months (or within any extensions of time obtained under § 1.136(a)) of the mail date of the Notice to avoid abandonment of the application.

On May 10, 2004, applicants filed the noted responses along with authorization to charge a Deposit Account any required fees and a petition to revive under § 1.137(b). Pursuant to the authorization, the fee for extension of time for response within the first month (to June 2, 2004) should have been charged to make this response timely. Instead, the petition fee of $665 was charged and by decision mailed July 14, 2004, the petition to revive was granted. To correct this error, the extension of time fee, in effect on May 10, 2004, is being charged to petitioner's Deposit Account, and the petition fee is being refunded to petitioner's Deposit Account. The decision granting the petition mailed July 14, 2004 was mailed in error and is hereby **vacated**. The petition to revive is hereby dismissed as moot without consideration on the merits.

As to the drawings and the according of a filing date, the Notice was intended to advise applicants that the filing date would be the date of receipt of the drawings and a newly executed oath or declaration covering the drawings. The Notice further provided that failure to satisfy 35 U.S.C. 113, within **TWO MONTHS** would result in termination of proceedings (not abandonment). However, in this instance, the Office did not terminate proceedings. Moreover, the Director has not dismissed the instant petition as untimely filed, but rather has considered the petition on the merits. See § 1.181(f).

CONCLUSION

The Office of Initial Patent Examination (OIPE) has been advised of this decision. Pursuant to this decision, the application has been referred to OIPE for **correction of the filing date to September 30, 2003** and for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing.

Thereafter, the application will be forwarded to Technology Center AU 1637 for examination in due course.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BEYER WEAVER & THOMAS LLP
P.O. Box 70250
Oakland, CA 94612-0250

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JUL 0 5 2005

Technology Center 2100

In re Application of:
Nicholas M. RYAN
Application No. 10/676,850
Filed: September 30, 2003
For: METHOD AND SYSTEM FOR SECURING DIGITAL ASSETS USING TIME-BASED SECURITY CRITERIA

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed January 10, 2005.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on February 14, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Carr & Ferrell, LLP as the attorney(s) of record of the instant application. The Power of Attorney of February 14, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Carr & Ferrell LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of	
Nicholas M. Ryan	
Application No. 10/676,850	DECISION ON PETITION
Filed: September 30, 2003	TO WITHDRAW
Attorney Docket No. SSL1P022/SS-42	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 20, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Carr & Ferrell, LLP has been revoked by the assignee of the patent application on March 2, 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: RYAN MORRISON
INVENTION LAW GROUP
1756 – 114TH AVENUE, SE
SUITE 110
BELLEVUE, CA 98004

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/676,850	09/30/2003	Nicholas M. Ryan	SSL1P022/SS-42

CONFIRMATION NO. 3054

OC000000023169292

OC000000023169292

22830
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

Date Mailed: 03/29/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/20/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

April McDuse

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

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OFFICE OF PETITIONS

In re Application of	:	
Stephen J. WILLIAMS, et al	:	
Application No. 10/676,857	:	DECISION ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. 50225-8032.US04	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to the Office communication dated September 2, 2008, which set a non extendable time period of one (1) month. Accordingly, the application became abandoned on October 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment under 37 CFR 312; (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

A revocation of power of attorney was filed by the assignee on November 17, 2008. However, is not accepted because the assignee has not properly intervened, the chain of title is incomplete.

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).

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

The application is being referred to the Office of Data Management for further processing.

Ramesh Krishnamurthy

for Thurman Page
Petitions Examiner
Office of Petitions

cc: STEPHEN TODD
KING & SPALDING LLP
P.O. BOX 889
BELMONT, CA 94002

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MONOGRAM BIOSCIENCES, INC.
345 OYSTER POINT BOULEVARD
SOUTH SAN FRANCISCO, CA 94080

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OFFICE OF PETITIONS

In re Application of	:	
Stephen J. WILLIAMS, et al	:	
Application No. 10/676,857	:	DECISION ON REQUEST FOR
Filed: September 30, 2003	:	REVOCATION OF POWER
Attorney Docket No. 50225-8032.US04	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed November 17, 2008.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper.

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 below-listed first copied address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

Rajneesh Krishnamurthy

for Thurman Page
Petitions Examiner
Office of Petitions

cc: PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

cc: KING & SPALDING LLP
P.O. BOX 889
BELMONT, CA 94002

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Serhan et al. :
Application No. 10/676,869 :
Filed: September 30, 2003 : ON PETITION
Attorney Docket Number: DEP-5172 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed February 27, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 17, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on September 18, 2005. A Notice of Abandonment was mailed December 22, 2005.

Petitioner has filed an Amendment in response to the Office action with the petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 3733 for processing of the Amendment 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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JAN 1 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Hassan Serhan et al.	:	
Application No. 10/676,869	:	ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. DEP-5172	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 1, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit a response to the non-final Office action mailed April 13, 2007, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on July 14, 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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (3). The petition is unsigned and thus the statement of unintentional abandonment is not proper.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the Carl Friedman at (571) 272-76842.

David Bucci
Petitions Examiner
Office of Petitions

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NEW BRUNSWICK NJ 08933-7003

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APR 29 2008

OFFICE OF PETITIONS

In re Application of :
Hassan Serhan et al. :
Application No. 10/676,869 :
Filed: September 30, 2003 :
Attorney Docket No. DEP-5172 :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely respond to the non-final Office action mailed April 13, 2007, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on July 14, 2007.

The petition decision mailed January 11, 2008 dismissed the petition under 37 CFR 1.137(b) filed November 1, 2007 for failure to provide the required proper statement of unintentional delay under 37 CFR 1.137(b)(3), the petition was unsigned.

The instant renewed petition includes a signed statement of unintentional delay.

The renewed petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the amendment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to Technology Center Art Unit 3733 for appropriate action on the merits.

Christopher Bottorff

for David Bucci
Petitions Examiner
Office of Petitions

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KOPPEL, PATRICK & HEYBL
555 ST. CHARLES DRIVE
SUITE 107
THOUSANDS OAKS, CA 91360

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OFFICE OF PETITIONS

In re Application of	:	
Jeffrey F. DeNatale, Robert E. Mihailovich,	:	
Jonathan B. Hacker, Gabriel M. Rebeiz and		
Guan-Leng Tan		
Application No. 10/676,875	:	DECISION REFUSING STATUS
Filed: September 30, 2003	:	UNDER 37 CFR 1.47(a)
Title: 1:N MEM SWITCH MODULE	:	

This is in response to the "Petition Under 37 CFR 1.47(a)," filed February 19, 2004. The petition was recently forwarded to this office for review.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 30, 2003 without a fully executed oath or declaration and naming Jeffrey F. DeNatale, Robert E. Mihailovich, Jonathan B. Hacker, Gabriel M. Rebeiz and Guan-Leng Tan as joint inventors.

Accordingly, on December 22, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on February 19, 2004, the instant petition was filed.

A grantable petition under 37 CFR 1.47(a) requires:

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1), (2) and (4), as set forth above.

As to item (1),

Regarding Gabriel M. Rebeiz, applicant appears to demonstrate that the non-signing inventor was only presented with the declaration. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Regarding Guan-Leng Tan, applicant has failed to show that the inventor cannot be reached. Applicant has simply stated that inventor's contact information is not available. However, applicant has not submitted a statement of facts that describes any diligent efforts applicant has used to locate the non-signing inventor thereafter.

Where inability to find or reach a non-signing inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The 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, telephone directory searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the non-signing inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the non-signing inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions. See MPEP 409.03(d).

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration submitted September 30, 2003, does not set forth the citizenship, residence or mailing address of non-signing inventor Guan-Leng Tan. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is REQUIRED. See MPEP 409.03(a). Please note, applicant may consider the filing of a petition under 37 CFR 1.183 to waive the appropriate requirements regarding the address information, however, the citizenship requirement is statutory and cannot be waived.

As to item (4), a statement of non-signing inventor Guan-Leng Tan's last known address is missing and is required. Please note, applicant may consider the filing of a petition under 37 CFR 1.183 to waive this requirement.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (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) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 107
THOUSANDS OAKS CA 91360

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OFFICE OF PETITIONS

In re Application of	:
DeNatale, Mihailovich, Hacker,	: DECISION DISMISSING PETITION
Rebeiz, and Tan	: UNDER 37 CFR 1.47(a)
Application No. 10/676,875	:
Filed: 30 September, 2003	:
Atty Docket No. 00SC137US8	:

This is in response to the "RESPONSE TO DECISION REFUSING STATUS UNDER 37 CFR §1.47(a) IN LIEU OF REQUEST FOR RECONSIDERATION OF PETITION" which is treated as a renewed petition under 37 CFR 1.47(a) filed on 14 July, 2006.

The petition is **DISMISSED.**

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 30 September, 2003, with a declaration naming Jeffrey F. DeNatale, Robert E. Mihailovich, Jonathan B. Hacker, Gabriel M. Rebeiz, and Guan-Leng Tan as joint inventors. The declaration was executed by all of the inventors except Rebeiz and Tan. On 19 February, 2004, a petition under 37 CFR 1.47(a) was filed with regards to the non-signing inventors. The petition was dismissed on 24 May, 2006.

The present request for reconsideration was filed on 14 July, 2006. Petitioners assert that the signatures of Rebeiz and Tan are not necessary on the declaration because petitioners are requesting, in an amendment under 37 CFR 1.312, that Rebeiz and Tan be deleted as inventors under 37 CFR 1.48(b).

It is noted that 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.

Petitioners have not addressed the deficiencies outlined in the decision mailed on 24 May, 2006.

The petition is dismissed because petitioners have failed to state a cause of action. Specifically, 37 CFR 1.312 states that no amendment may be made as a matter of right in an application after the mailing of the notice of allowance. As such, petitioners' request under 37 CFR 1.48(b) is predicated upon the entry of the Rule 1.312 amendment.

Furthermore, such a change of inventorship may not be made as a matter of right because it is governed by 37 CFR 1.48(b) under which an amendment must be filed requesting the change.

The application will be referred for review of the amendment under 37 CFR 1.312. If the amendment is not entered, petitioner may wish to consider filing a petition under 37 CFR 1.183 to waive 1.48(a) in the event that the Rebeiz and Tan refuse or cannot be located to sign the appropriate documents.

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

The application will be forwarded to the Technology Center for consideration of the amendment under 37 CFR 1.312 filed on 14 July, 2006.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 21, 2007

TO SPE OF : ART UNIT 2432 Elvin G. Enad

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/676,875 Patent No.: 7157993 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**.

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

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: Corrections okay. Same previously approved by interview on Examiner's Amendment.

ELVIN ENAD
SUPERVISORY PATENT EXAMINER

SPE **Art Unit** 2432

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

COPY MAILED

MAY 1 5 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Christopher L. Rumer et al :
Application No. 10/676,883 :
Filed: September 30, 2003 :
Attorney Docket No. 42P16840 :

This is a decision on the petition, filed May 8, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 17, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2891 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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INTEL/BLAKELY
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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MAR 3 1 2008
OFFICE OF PETITIONS

In re Application of	:	
John A. Rushing, et al.	:	
Application No. 10/676,893	:	DECISION ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. 042390.P14977	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 9, 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 3, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed July 3, 2007. Accordingly, the date of abandonment of this application is October 4, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/676,900	09/30/2003	2661	900	109822-96 02CXT0079D	3	12	2

CONFIRMATION NO. 8081

UPDATED FILING RECEIPT

OC000000011989690

27189
PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

Date Mailed: 02/27/2004

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)

Carlos M.D. Pazos, La Jolla, CA;

Assignment For Published Patent Application

Conexant Systems, Inc.;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/22/2003

Projected Publication Date: 03/31/2005

Non-Publication Request: No

Early Publication Request: No

Title

TCP acceleration system

Preliminary Class
370

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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FEB 11 2005

OFFICE OF PETITIONS

FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

In re Application of John Hibner et al Application No. 10/676,944 Filed: September 30, 2003 Attorney Docket No. END-814-21680.503883	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 28, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an executed declaration and the required fees; (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 22, 2003 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 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
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ALEXANDRIA, VA 22313-1450
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APR 17 2007

OFFICE OF PETITIONS

PATE PIERCE & BAIRD
215 SOUTH STATE STREET, SUITE 550
PARKSIDE TOWER
SALT LAKE ITY UT 84111

In re Patent No. 6,952,649	: DECISION GRANTING PETITION
Issue Date: October 4, 2005	: UNDER 37 CFR 1.78(a)(3) AND
Application No. 10/676,945	: REQUEST FOR CERTIFICATE OF
Filed: October 1, 2003	: CORRECTION
Attorney Docket No. 3337.2.1	:

This is a decision on the petition, filed December 14, 2006, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 08/840,052, filed April 24, 1997, by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed October 1, 2003. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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	TOT CLMS	IND CLMS
10/676,945	10/01/2003	2857	917	3337.2.1	41	4

CONFIRMATION NO. 7860
CORRECTED FILING RECEIPT
OC000000023414151
OC000000023414151

28049
PATE PIERCE & BAIRD
215 SOUTH STATE STREET, SUITE 550
PARKSIDE TOWER
SALT LAKE CITY, UT 84111

Date Mailed: 04/17/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Daniel R. Cook, Bountiful, UT;
John D. Walther, Richmond, TX;

Power of Attorney:

A Pate--36234
Gary Pierce--38019
David Fonda--39672
Hal Baird--42284
Michael Pate--53439
Warren Pate--54364

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/416,342 10/04/2002
and is a CIP of 10/364,785 02/11/2003 PAT 6,745,156
which is a CON of 08/840,052 04/24/1997 PAT 6,546,378

Foreign Applications

If Required, Foreign Filing License Granted: 12/23/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/676,945

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

PETROLEUM EXPLORATION AND PREDICTION APPARATUS AND METHOD

Preliminary Class

702

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 02, 2007

TO SPE OF : ART UNIT 2191 10/676945

SUBJECT : Request for Certificate of Correction on Patent No.: 6952649 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

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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 — 2857 Art Unit

John Barlow
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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Paper No.

MOTOROLA, INC.
CORPORATE LAW DEPARTMENT - #56-238
3102 NORTH 56TH STREET
PHOENIX, AZ 85018

COPY MAILED

JUL 1 5 2004

OFFICE OF PETITIONS

In re Application of Harold Rosenstock, Richard Dykiel, Richard Lagueux and Nehru Bhandaru Application No. 10/676,948 Filed: September 30, 2003 Attorney Docket No. IS01406MCG Title: METHOD OF MIGRATING ACTIVE GENERAL SERVICE MANAGER FUNCTION	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.47(a)," filed May 3, 2004.

The petition is **GRANTED**.

The above-identified application was filed on September 30, 2003, with an unexecuted declaration. Accordingly, on March 19, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, rule 47 applicants timely filed the instant petition (and fee); the late surcharge; and a declaration executed by joint inventors Rosenstock and Bhandaru on behalf of themselves and on behalf of non-signing joint inventors Dykiel and Lagueux. Rule 47 applicants maintain that status under 37 CFR 1.47 is proper because joint inventors Dykiel and Lagueux refuse to join in the application for patent.

By declaration of patent attorney Kevin Wills and Senior Administrative Assistant V. Lynn Webb, applicants have shown that the application papers were presented to the non-signing inventors, but they refused to join in the application. The petition includes copies of the postal records showing that the inventors refused delivery of the application papers. The petition also includes copies of email communications from each non-signing inventor stating that they would not join in the application. The petition includes a statement of the last known address of each of the non-signing inventors.

The declaration filed May 3, 2004, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the

address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application will be examined in Technology Center 2183 in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

RICHARD LAGUEUX
11 PINEWOOD RD
HUDSON, NH 03051

COPY MAILED
JUL 1 5 2004
OFFICE OF PETITIONS

In re Application of :
Harold Rosenstock, Richard Dykiel, :
Richard Lagueux and Nehru Bhandaru : LETTER
Application No. 10/676,948 :
Filed: September 30, 2003 :
Attorney Docket No. IS01406MCG :
Title: METHOD OF MIGRATING ACTIVE :
GENERAL SERVICE MANAGER FUNCTION :

Dear Mr. Lagueux:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

MOTOROLA, INC.
CORPORATE LAW DEPARTMENT - #56-238
3102 NORTH 56TH STREET
PHOENIX, AZ 85018

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No.

RICHARD DYKIEL
29 ETHAN ALLEN DRIVE
ACTON, MA 01720

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JUL 1 5 2004

OFFICE OF PETITIONS

In re Application of :
Harold Rosenstock, Richard Dykiel, :
Richard Lagueux and Nehru Bhandaru : LETTER
Application No. 10/676,948 :
Filed: September 30, 2003 :
Attorney Docket No. IS01406MCG :
Title: METHOD OF MIGRATING ACTIVE :
GENERAL SERVICE MANAGER FUNCTION :

Dear Mr. Dykiel:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

MOTOROLA, INC.
CORPORATE LAW DEPARTMENT - #56-238
3102 NORTH 56TH STREET
PHOENIX, AZ 85018

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No.

GLAXOSMITHKLINE
C/O FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304-1013

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JUN 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,425,547	:	
Roberts et al.	:	DECISION
Application No. 10/676,956	:	DISMISSING REQUEST FOR
Issued: September 16, 2008	:	RECONSIDERATION OF
Filed: September 30, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705(d)
355491-1250(G081US)	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705," filed on October 28, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred sixty-seven (267) days to seven hundred eight-two (782) days.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 267 days.

BACKGROUND

On August 27, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 267 days.

On September 16, 2008, the application matured into U.S. patent No. 7,425,457, with a patent term adjustment of two hundred sixty-seven (267) days.[1]

[1] No application for Patent Term Adjustment was timely filed disputing the initial determination.

On October 28, 2008, this request for reconsideration of the patent term adjustment was timely filed.

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). 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. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

OPINION

On September 16, 2008, this patent issued with a patent term adjustment determination of two hundred sixty-seven (267) days. Patentees argue that the determination of 267 days is in error in that pursuant to 35 U.S.C. § 154(b) the Office failed to issue a patent within three years of the actual filing date of the above-referenced application in accordance with 37 CFR § 1.702(b) **and** failed to take certain action within the time frames specified in 37 CFR § 1.702(a).

Specifically, patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 717 days. This 717 day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on September 30, 2003, and the patent having not issued until September 16, 2008, three years and 717 days later. Patentees maintain that in addition to this 717 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), totalling 627 days. Patentees have calculated this delay as follows: a period of delay of 518 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); and a period of 109 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken, pursuant to § 1.702(a)(2).

On April 11, 2008, the issue fee was paid. On September 16, 2008, four (4) months and thirty-six (36) after payment of the issue fee, the application issued as U.S. Patent No. 7,425,547. Pursuant to 37 CFR 1.704(a)(4), an additional period of adjustment of 36 days was entered. Accordingly, the total period of Examination delay under 37 CFR 1.702(a) is 663 days.

The period of reduction of 450 days for applicant delay is not in dispute.[2] Patentees maintain that the total period of Office delay is the sum of the period of Three Years Delay (717 days) and the period of Examination Delay (663 days)[3] **to the extent that these periods of delay are not overlapping.**

---

[2] The period of reduction is calculated as follows: a 21 day period of reduction for the filing of a response to the Office action mailed on May 2, 2006, on August 23, 2006, which is three (3) months and 21 days after the mailing of the Office action pursuant to 37 CFR 1.704(b); a 217 day period of reduction for the filing of an IDS on March 28, 2007, 217 days after the filing of a response to a non-final Office action on August 23, 2006, pursuant to 37 CFR 1.704(c)(8); a 92 day period of reduction for the filing of a response on October 11, 2007, to a non-final Office action mailed on April 11, 2007, three (3) months and 92 days after the mailing of the non-final Office action, pursuant to 37 CFR 1.704(b); a reduction of 123 days for the filing of an amendment filed after the mailing of the notice of allowance filed on April 11, 2008, and the date a response to the amendment after the mailing of the notice of allowance was mailed, or four (4) months.

With regard to applicant's assertion that a 123 day period of reduction should be entered, it is noted that 37 CFR 1.704(c)(10) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of: (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or (ii) Four months. As the response to the amendment after the mailing of the notice of allowance was mailed 123 days, or more than four (4) months after the filing of the amendment after the mailing of the notice of allowance, the period of reduction under 37 CFR 1.704(c)(10) is set at 120 days. Accordingly, for purposes of consistency in the analysis on this petition, the period of delay will be referred as a 120 day period of reduction.

[3] For purposes of consistency in the analysis of this petition, the period of examination delay under 37 CFR 1.702(a) will be referred to as 663 days, as computed by the Office, rather than the 627 days claimed by patentees.

Patentees contend that:

> As the period of 14 month delay ended on November 30, 2004, prior to the first day of the period of Three Years Delay, i.e., September 30, 2006, Patentees submit that these periods are not overlapping.

As such, patentees assert, in essence, entitlement to a patent term adjustment of 930 (663+717-450) days.

The Office agrees that the patent issued 3 years and 717 days after its filing date. .The Office agrees that the actions detailed above were not taken within the specified timeframes, and thus, the entries of a period of adjustment of 267 days respectively are correct. At issue is whether patentees should accrue 930 days (717 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 663 days for Office failure to take certain actions within specified time frames (or examination delay), or that period not considered to overlap, less 450 days of applicant delay).

The Office does not agree and contends that the entire period of 663 days overlap. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has

consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[4]

As such, the period for over 3 year pendency does not as argued by patentees 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

---

[4] 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).

specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Patentees are incorrect in treating the relevant period as starting on September 30, 2006, the date that is 3 years after the actual filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, September 30, 2003 to September 16, 2008. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 663 days (518+109+36) days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within specified time frames during the pendency of the application. All of these 663 days overlap with the 717 days for Office delay in issuing the patent. Accordingly, at issuance, the Office properly entered 54 days (717 - 663 days) additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 267 days.

CONCLUSION

The request for reconsideration of the revised patent term adjustment is dismissed.

The Office acknowledges patentees submission of the $200.00 fee set forth in §1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paul M. Denk
763 S. New Ballas Road
Suite 170
St. Louis, MO 63141

COPY MAILED

JAN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Fred D. Oberhaus	:	
Application No. 10/676,980	:	ON PETITION
Filed: October 1, 2003	:	
Attorney Docket No. 7349	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060925

DATE : September 25, 2006

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction on Patent No.: 7,016,239

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:

Approved, A. Phung 9/25/06

9/25/06
RICHARD ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE: Richard Elms **Art Unit** 2824

Attorney's Docket No.: 110350-132368
IPN: P16324

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

approved 07/25/06

In re Application for:

Chatterjee et al.

Application No.: 10/676,985

Filed: 09/30/2003

Patent No.: 7,016,239 B2

Issued: 03/21/2006

For: LEAKAGE TOLERANT REGISTER FILE

OIPE IAP16 JUL 17 2006 PATENT & TRADEMARK OFFICE

Examiner: Anh Phung

Art Group: 2824

Confirmation No. 7698

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, PO Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Typed or Printed: Heather L. Adamson

Signature: Date: 07/12/2006

Attn: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate JUL 19 2006 of Correction

REQUEST FOR CERTIFICATE OF CORRECTION

Dear Sir:

Upon review of the above-referenced Letters Patent, Applicant noted errors that are the mistake of the Applicant and the U.S. Patent and Trademark Office.

Inventors

A Petition under 37 C.F.R. §1.48 for Inventorship Change together with supportive documentation was filed on 04/07/2004.

On 04/27/2005, Applicants telephoned the Office to determine the status of the Petition and Applicants were informed the Petition would not be reviewed for at least another year.

On 03/21/2006, the above patent issued with incorrect inventorship due to the Petition not being timely reviewed.

Therefore, the correct inventorship should read as follows:

Bhaskar P. Chatterjee, Waterloo (CA);
Steven K. Hsu, Lake Oswego, OR (US);
Sriram R. Vangal, Portland, OR (US);
Ram Krishnamurthy, Portland, OR (US);
Sapumal Wijeratne, Portland, OR (US);
Pankaj Aswal, Beaverton, OR (US)

07/18/2006 SSITHIB1 00000086 7016239

01 FC:1811 100.00 OP

JUL 20 2006

In the Claims:

Column 5, lines 23-24, "...supply voltage **242** " should read --...driving signal trace **242**...--;

Column 7, line 32, "...claim **10**..." should read --...claim **1** --; and

Column 7, line 56, "...claim **1**..." should read --...claim **11** --.

Enclosed is a Certificate of Correction (in duplicate) and it is respectfully requested that a Certificate of Correction be issued. This request for correction is made under the provisions of 37 CFR 1.322 and 1.323.

Also enclosed is a check in the amount of $100.00 for payment of the fee as set forth in 37 CFR § 1.20(a).

The Commissioner is hereby authorized to charge shortages or credit overpayments to Deposit Account No. 500393.

Respectfully submitted,

SCHWABE, WILLIAMSON & WYATT, P.C.

Dated: 7/12/06

James J. Namiki
Reg. No. 51,148

Pacwest Center, Suite 1900
1211 SW Fifth Avenue
Portland, Oregon 97204
Telephone: (503)222-9981

JUL 20 2006

approved 4/25/06

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. : 7,016,239 B2

APPLICATION NO.: 10/676,985

ISSUE DATE : 03/21/2006

INVENTOR(S) : Chatterjee 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:

Inventors:
Bhaskar P. Chatterjee, Waterloo (CA);
Steven K. Hsu, Lake Oswego, OR (US);
Sriram R. Vangal, Portland, OR (US);
Ram Krishnamurthy, Portland, OR (US);
Sapumal Wijeratne, Portland, OR (US);
Pankaj Aswal, Beaverton, OR (US)

In the Claims:
Column 5, lines 23-24, "...supply voltage 242 " should read --...driving signal trace 242...--;
Column 7, line 32, "...claim 10..." should read --...claim 1 --; and
Column 7, line 56, "...claim 1..." should read --...claim 11 --.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

SCHWABE, WILLIAMSON & WYATT, P.C.
1211 SW Fifth Ave., Suite 1900
Portland, OR 97204

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

JUL 20 2006

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Paper No.

MOTOROLA, INC.
CORPORATE LAW DEPARTMENT - #56-238
3102 NORTH 56TH STREET
PHOENIX AZ 85018

COPY MAILED

MAR 0 8 2004

OFFICE OF PETITIONS

In re Application of Harold Rosenstock, Richard Dykiel, Michael Leibensperger, and Nehru Bhandaru Application No. 10/676,991 Filed: September 30, 2003 Attorney Docket No. IS01407MCG Title: METHOD OF REPLICATING DATABASE ELEMENTS IN AN INFINIBAND ARCHITECTURE SUBNET	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR § 1.47(a) filed January 20, 2004.

The petition is **GRANTED**.

The above-identified application was filed on September 30, 2003, with an unexecuted declaration. Harold Rosenstock, Richard Dykiel, Michael Leibensperger, and Nehru Bhandaru were named as joint inventors. Accordingly, on December 22, 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, rule 47 applicant timely filed the instant petition (and fee); the late surcharge; and a declaration executed by inventors Rosenstock and Bhandaru on behalf of themselves and on behalf of non-signing joint inventors Dykiel and Leibensperger. Rule 47 applicants maintain that status under 37 CFR 1.47 is proper because joint inventors Dykiel and Leibensperger refuse to join in the application for patent.

By declaration of facts of patent attorney Kevin Wills, with supporting documentary evidence, petitioner has shown that an attempt was made to present the application papers to inventor Dykiel but he refused delivery. Further, the declaration shows that the application papers were presented to inventor Leibensperger. The petition includes copies of written refusals from both inventors. The petition includes the last known addresses of both inventors.

The declaration filed January 20, 2004, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The Office of Initial Patent Examination is now being advised of this decision accepting the declaration under § 1.47, and thus, the application is ready for continued pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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RICHARD DYKIEL
29 ETHAN ALLEN DRIVE
ACTON, MA 01720

COPY MAILED

MAR 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Harold Rosenstock, Richard Dykiel, :
Michael Leibensperger, and : LETTER
Nehru Bhandaru :
Application No. 10/676,991 :
Filed: September 30, 2003 :
Attorney Docket No. IS01407MCG :
Title: METHOD OF REPLICATING :
DATABASE ELEMENTS IN AN INFINIBAND :
ARCHITECTURE SUBNET :

Dear Mr. Dykiel:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

MOTOROLA, INC.
CORPORATE LAW DEPARTMENT - #56-238
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MICHAEL LEIBENSPERGER
26 CLAREMON STREET, UNIT #2
SOMERVILLE, MA 02144

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MAR 0 8 2004

OFFICE OF PETITIONS

In re Application of Harold Rosenstock, Richard Dykiel, Michael Leibensperger, and Nehru Bhandaru Application No. 10/676,991 Filed: September 30, 2003 Attorney Docket No. IS01407MCG Title: METHOD OF REPLICATING DATABASE ELEMENTS IN AN INFINIBAND ARCHITECTURE SUBNET	LETTER

Dear Mr. Leibensperger:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson

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Office of Petitions

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KRIEGER INTELLECTUAL PROPERTY, INC.
P.O. BOX 1073
CAMAS, WA 98607

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FEB 2 8 2008

In re Application of

Dolan, et al.

Application No. 10/677,009

Filed: September 30, 2003

Attorney Docket No. SLA1195

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), February 6, 2008, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1,440.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed October 26, 2007. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on January 27, 2008.

The issue fee, publication fee, and Form PTOL-85-b were received on February 6, 2008.

The application is being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HAN-YI LEE
BAYSHORE PATENT GROUP, LLC
520 CHANTECLER DR.
FREMONT CA 94539

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OFFICE OF PETITIONS

In re Application of	:	
Kang-Chung Cheng	:	
Application No. 10/677,036	:	DECISION ON REQUEST
Filed: September 30, 2003	:	TO WITHDRAW
Attorney Docket No. US920022	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 17, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Paper No.

C. Douglas Thomas
BEYER WEAVER & THOMAS LLP
P.O. Box 70250
Oakland, CA 94612-0250

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APR 2 6 2005

Technology Center 2100

In re Application of:
Nath et al.
Application No. 10/677,049
Filed: September 30, 2003
For: METHOD AND SYSTEM FOR SECURING DIGITAL ASSETS USING PROCESS-DRIVEN SECURITY POLICIES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation Under 37 CFR 1.36 and 10.40(c) filed January 10, 2005.

A Power of Attorney Under 37 CFR 1.36 was filed on February 10, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed CARR & FERRELL LLP as the attorneys of record of the instant application. The Power Of Attorney of February 10, 2005, was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by CARR & FERRELL LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

James R. Matthews

JM Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: CARR & FERRELL LLP
2200 Geng Road
Palo Alto, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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APR 30 2007

OFFICE OF PETITIONS

In re Application of	:	
NATH, et al	:	
Application No. 10/677,049	:	DECISION ON PETITION
Filed: September 30, 2003	:	TO WITHDRAW
Attorney Docket No. SSL1P020/SS-040	:	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.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Susan Yee of CARR & FERRELL LLP has been revoked by the assignee of the patent application on February 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.**
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of	:
Mohamed K. Diab, et al.	: DECISION ON PETITION
Application No.: 10/677,050	: UNDER 37 CFR 1.183
Filed: September 30, 2003	: SEEKING WAIVER OF
For: Signal Processing Apparatus	: REQUIREMENTS UNDER
Attorney Docket No. MASIMO.7CP1C10	: 37 CFR 1.98 and 1.52

This is a response to a petition under 37 CFR 1.183 mailed on June 15, 2005, concurrently with an Information Disclosure Statement (IDS) in the above referenced application. The § 1.183 petition requests waiver of the rules for Information Disclosure Statements under 37 CFR 1.98. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 and § 1.52 provisions which require filing a paper copy of each reference cited in an IDS. The request for waiver is made in view of the need to file the same IDS copies in multiple applications relating to different aspects of a particular invention. A paper copy of the references was filed in application no. 10/779,033 on June 2, 2005.

The petition under 37 CFR 1.183 requesting relief to file a single paper copy of IDS references is **GRANTED** to the extent set forth below.

The instant application filed under 35 U.S.C. 111 is one of 12 U.S. applications related to patent families in litigation. The references cited in the IDS are references arising from the litigation.

Applicants' submission of an IDS is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information material to patentability, which includes information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an IDS in the manner prescribed by 37 CFR 1.97 and 1.98.

37 CFR 1.98 requires that any IDS provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. All papers filed in an application are required to be in paper by 37 CFR 1.52(a) unless they are under filed under some other provision of the rules or a waiver of the rules. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP § 609 (8th Ed. Rev. 2, May 2004), pages 600-122 and 600-123.

Applicants note that the instant application is one of 12 applications that are part of patent families or claim benefit of a parent patent in the same litigation.

Rather than be required to submit, via a paper copy, five boxes of foreign patent and non-patent literature references in each of 12 applications, Applicants seek to have:

(1) The earlier filed single paper copy in application no. 10/779,033 of each IDS citation fulfill the requirement for a paper copy in all 12 applications;

(2) One application (application no. 10/779,033) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of the references to be submitted in only the "holding" application; and

(3) The other related pending U.S. applications (the "bulk filing" applications), be exempt from requiring a separately filed paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, and a copy of the Form 1449 (or equivalent). The Office may choose at its option to provide electronic access or provide a copy of each reference in the "bulk filing" applications.

A review of Office records indicates that the instant application and the '033 application are both Image File Wrapper (IFW) applications. Also, since the '033 application has been published all the copies of the references in IFW are readily available to the public. Accordingly, the Office can provide an image copy of all of the IDS references from the holding application to the instant application.

Applicants' set of petitions appears to contain typographical errors noted below; while none of these errors affect the merit of any of the petitions, Applicants are requested to correct their records so as to prevent further confusion. First, the petition for application no. 09/111,604 is erroneously captioned as "09/110,604." Additionally, each petition incorrectly cites application no. 10/677,050 as "10/667,050" and incorrectly cites application no. 11/003,231 as "11/003,321."

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicants be spared the necessity of submitting duplicative paper copies of foreign patent and non-patent literature references in 12 applications, but also the Office would benefit from not having to handle and store the duplicative sets of

copies. While there may be some negative effects from the Office's point of view in terms of making the copies available in different applications from one paper copy, on balance, there is seen to be sufficient benefit to justify waiver in this instance for all the applications filed.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below. Once past the initial IDS submission, the petition does not propose the waiver to apply to updates and no waiver is granted for updates of the IDS.

The § 1.98(a)(2) requirement for (the submission of) a copy of each foreign patent and non-patent literature IDS citation in a bulk filing application will be waived in the bulk filing applications only for non-patent literature and foreign patents provided that the following five conditions are complied with:

1) One paper copy of each foreign patent and non-patent literature IDS citation has been submitted to the Office in the concurrently filed IDS in the holding application.

2) The information cited in each of the bulk filing applications is or has also been cited in the holding application.

Note: Applicants are not required to cite in each bulk filing application every item of information that is cited in the holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

Also note: A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the holding application.

3) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), if submitted in the holding application, must also be supplied in each bulk filing application where the citation is made.

4) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicants may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

5) There will be no waiver of any aspects of 37 CFR 1.97 in any application after allowance or final rejection of that application.

Any correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

By FAX: (571) 273-8300
Attn: Office Patent Legal Administration/Samuel Broda

Telephone inquiries should be directed to Samuel Broda at (571) 272-7711.

Samuel Broda for

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUN 0 1 2006

John M. Grover
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of: DAIB et al.	:
Appl. No.: 10/677,050	: DECISION ON PETITION
Filed: September 30, 2003	: Under 37 CFR 1.59
For: SIGNAL PROCESSING APPARATUS	:

This is a response to the petition under 37 CFR 1.59(b), filed on December 22, 2005 by which petitioners request to expunge information from the above identified application.

The decision on the petition is will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in the Information Disclosure Statement, filed December 22, 2005 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to the applicant.

The document in question will not be available to the public during prosecution.

Frederick R. Schmidt, Director
Technology center 3700

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P.O. Box 1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

SEP 17 2008

In re Application of: DIAB et al.	:
Appl. No.: 10/677,050	: DECISION ON PETITION
Filed: September 30, 2003	: Under 37 CFR 1.59
For: SIGNAL PROCESSING APPARATUS	:

This is a response to the petition under 37 CFR 1.59(b), filed on December 22, 2005 by which petitioners request to expunge information from the above identified application.

The petition is granted.

Petitioner requests that documents listed on the Information Disclosure Statement filed December 22, 2005 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17 (g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. A listing with all cited materials lined through by the examiner as not considered material to patentability was attached to the Notice of Allowance..

Applicant is required to retain the expunged material(s) for the life on any patent which issues on the above-identified application. The expunged material has been removed from the official file. The material has been closed from public view in the Image File Wrapper system.

Petition to expunge GRANTED

Frederick R. Schmidt, Director
Technology center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Gibson & Dernier, LLP
900 Route 9 North
Suite 504
Woodbridge, NJ 07095

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DEC 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Tom Evslin	:	
Application No. 10/677,054	:	DECISION ON PETITION
Filed: October 1, 2003	:	TO WITHDRAW
Attorney Docket No. 449-115	:	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 2, 2009.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Gibson & Dernier, LLP has been revoked by the assignee of the patent application on November 9, 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 until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Kaplan Gilman & Pergament, LLP
1480 Route 9 North
Woodbridge, NJ 07095

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No.

LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

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SEP 15 2008
OFFICE OF PETITIONS

In re Application of	:	
Takeshi Konno et al.	:	
Application No. 10/677,075	:	DECISION ON TWO PETITIONS
Filed: September 30, 2003	:	PURSUANT TO 37 C.F.R.
Attorney Docket No. TOW-045RCE2	:	§§ 1.59(B) AND 1.181(A)
Title: ELECTRIC KEY SYSTEM FOR	:	
MOTORCYCLE	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on July 14, 2008. This is also a decision on the concurrently filed petition pursuant to 37 C.F.R. § 1.59(b), requesting the expungement of evidentiary documentation that was filed in support of the petition pursuant to 37 C.F.R. § 1.181(a).

The petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**.

The petition pursuant to 37 C.F.R. § 1.59(b) is **GRANTED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed November 15, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on February 16, 2007.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.59(b) sets forth, *in toto*:

> (b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(g) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such

master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS OF THE PETITION PURSUANT TO RULE 1.181(A)

With this petition, Petitioner has alleged that the mailing was not received.

Petitioner has included a statement describing the system used for recording an Office action received at the correspondence address of record with the USPTO and establishing that the docketing system is sufficiently reliable. Petitioner has further stated that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including the file jacket[1] indicates that the Office action was not received. Petitioner has provided a copy of the records used by the practitioner where the non-received Office action would have been entered had it been received is required, along with the master docket for the firm.

Moreover, the undersigned has reviewed the electronic file that is associated with this application, and it is noted that the non-final Office action of November 15, 2007 was returned to the Office as "not deliverable as addressed."

1The Office is construing this submission to contain a statement establishing that a search of the application contents was conducted, and this search indicates that the Office action was not received. **If this is not a proper interpretation of Petitioner's submission, Petitioner must notify the Office.**

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the Office communication was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN.**

ANALYSIS OF THE PETITION PURSUANT TO RULE 1.59(B)

In order to support his assertion of non-receipt of the non-final Office action of November 15, 2007, Petitioner has included a copy of his firm's docket report and a copy of his firm's master docket. Petitioner has requested that each of these items be expunged from the file that is associated with this application.

The matter Petitioner wishes to have expunged does not form part of the original disclosure. The $200 petition fee will be charged to Petitioner's Deposit Account in due course, as authorized in the petition.[2] Petitioner has established to the satisfaction of the Director that the expungement of this information is appropriate.

As such, the electronic document that contains these 110 pages has been closed in the Office's Image File Wrapper software viewing program. The paper documents will not be removed from the physical file however, as the Office does not remove papers from paper files which have been scanned.

CONCLUSION

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the non-final Office action of November 15, 2007, and will set a new period for response.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that

2 Petitioner has asserted that he is of the belief that no fee is due, however it is noted that the Rule explicitly sets forth the requirement of the submission of the appropriate fee.

change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON, MA 02109

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FEB 09 2005

OFFICE OF PETITIONS

In re Application of :
Findeis, et al. :
Application No. 10/677,076 :
Received: September 30, 2003 :
Attorney Docket No. PPI-016CP4CN3 :

ON PETITION

This is a decision on the papers styled, "Petition TO Accord Filing Date Under 37 CFR 1.53(e)," filed November 15, 2004, requesting that the above-identified application be accorded a filing date of September 30, 2003, including four (4) sheets of drawings.

The application was submitted on September 30, 2003. However, on October 13, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application," (Notice) that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

In response, on November 11, 2004, the instant petition and four (4) sheets of drawings were filed.

Petitioner states:

> "The drawings inadvertently omitted from the filing of September 30, 2003 were part of prior application Serial No. 08/920,162 from which the oath or declaration was supplied on September 30, 2003. (The drawings were also part of the immediate parent application Serial No. 09/895,443).
>
> "As also indicated by the Utility Patent Application Transmittal filed on September 30, 2003, "[t]he entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference" and "[t]he incorporation can only be relied upon

> when a portion has been inadvertently omitted from the submitted application parts" (see Box 18 of the Utility Patent Application Transmittal).
>
> "Based on the fact that the present application is a continuation application under 37 CFR 1.53(b) and the fact that Applicants incorporated by reference the entire disclosure of the prior application from which an oath or declaration was supplied, Applicants may rely on the prior application for the drawings which were inadvertently omitted from the submitted application parts."

Petitioner requests the use of the incorporation by reference statement in Box 18 of the Utility Patent Application Transmittal to incorporate-by-reference the drawings of the parent application in order to accord the above-identified application a filing date of September 30, 2003. However, please note MPEP 201.06(c):

> "A. Application NOT Entitled to a Filing Date
>
> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will **not** be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered."

It is noted that the required amendment has not been submitted with the instant petition. At the present time, the petition must be <u>dismissed</u>. However, this decision is made without prejudice to reconsideration.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/17/09

Paper No.: _____

TO SPE OF : ART UNIT 2193

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/677081 Patent No.: 7356812 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

LEWIS A. BULLOCK, JR.
SUPERVISORY PATENT EXAMINER
SPE

2193
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

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

MAR 26 2010

OFFICE OF PETITIONS

In re Application of	:
Brian Labrec	: DECISION ON APPLICATION
Application No. 10/677,092	: FOR
Filed: September 30, 2003	: PATENT TERM ADJUSTMENT
Atty. Dkt. No. 38820-534001US	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)," filed on December 17, 2009. Applicants request that the initial determination of patent term adjustment be corrected from eighteen (18) days to forty-eight (48) days. Applicants additionally state that the correction is requested in view of the decision in Wyeth v. Dudas, (D.D.C. 2008). As applicant raises the issue of delay under 37 CFR 1.702(b), the petition will be treated as a petition requesting correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

The application for patent term adjustment is **GRANTED to the extent indicated**.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **FORTY-EIGHT (48)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee

is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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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.

To the extent the application requests reconsideration under 37 CFR 1.705(b), the petition is **GRANTED**.

On September 21, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was 18 days. The period of adjustment was 285 days of PTO delay and 267 days of applicant delay.

On December 17, 2009, the subject application for patent term adjustment was timely filed.[2]

Applicants state that a period of reduction of 11 days for applicant delay should be entered pursuant to 37 CFR 1.704(c)(8), for the filing of a supplemental paper (IDS) on July 1, 2005, 11 days after the filing of a reply on June 20, 2005.

Upon review, applicants are correct. A review of the record reveals that on July 1, 2005, 11 days after the filing of a reply on June 20, 2005, an IDS was filed. The IDS was not accompanied by the statement set forth in 37 CFR 1.704(d). Therefore, a period of reduction of 11 days for applicant delay will be entered.

Applicants state that a period of reduction of 14 days for applicant delay should be entered pursuant to 37 CFR 1.704(c)(8) for the filing of a supplemental paper (IDS) on October 24, 2006, 14 days after the filing of a reply on October 10, 2006.

Upon review, applicants are correct. A review of the record reveals that on October 24, 2006, 14 days after the filing of a reply on October 10, 2006, an IDS was filed. The IDS was not accompanied by the statement set forth in 37 CFR 1.704(d). Therefore, an additional period of reduction of 14 days for applicant delay will be entered.

Applicants assert that duplicate periods of both Office and applicant delay have been entered. In particular, applicants assert duplicate periods of reduction for applicant delay of 61 days on November 20, 2007; of 4 days on April 21, 2008, and of 33 days on September 15, 2008, respectively, were entered. Further, applicants assert a duplicate period of adjustment for Office delay of 43 days was entered on February 27, 2009.

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[2] A review of PALM records indicates that the issue fee was paid on December 18, 2009.

Upon review, applicants are correct. Duplicate periods of applicant delay of 61 days, 4 days, and 33 days were entered. Additionally, a duplicate period of Office delay of 43 days was entered. The duplicate periods of Office delay and applicant delay will be removed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is FORTY-EIGHT (48) days (242 (108 + 91 + 43) days of PTO delay, reduced by 194 (64 + 2 + 11 + 5 + 14 + 61 + 4 + 33) days of Applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Patent Publication has been advised of this decision. The application is thereby forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries regarding this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

Encl: Revised PALM Calculation

Day : Friday
Date: 3/26/2010

PALM INTRANET

Time: 07:34:06

PTA Calculations for Application: 10/677092			
Application Filing Date:	09/30/2003	PTO Delay (PTO):	285
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	267
Post-Issue Petitions:	0	Total PTA (days):	48
PTO Delay Adjustment:	30		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
162	03/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	30		
155	09/21/2009	MAIL NOTICE OF ALLOWANCE			
154	09/17/2009	ISSUE REVISION COMPLETED			
153	08/08/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
152	08/08/2009	DOCUMENT VERIFICATION			
151	08/08/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
150	08/04/2009	NOTICE OF ALLOWABILITY			
149	07/20/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
148	07/20/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
147	07/28/2009	DATE FORWARDED TO EXAMINER			
146	07/20/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
145	07/28/2009	DISPOSAL FOR A RCE / CPA / R129			
144	07/20/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
143	07/20/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
142	06/22/2009	EXPORT TO INITIAL DATA CAPTURE			
141	06/17/2009	MAIL NOTICE OF ALLOWANCE			
141	06/17/2009	MAIL NOTICE OF ALLOWANCE			
140	06/17/2009	ISSUE REVISION COMPLETED			
140	06/17/2009	ISSUE REVISION COMPLETED			
139	06/17/2009	DOCUMENT VERIFICATION			
139	06/17/2009	DOCUMENT VERIFICATION			
		NOTICE OF ALLOWANCE DATA VERIFICATION			

138	06/17/2009	COMPLETED			
138	06/17/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
137	06/09/2009	NOTICE OF ALLOWABILITY			
137	06/09/2009	NOTICE OF ALLOWABILITY			
136	05/27/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
136	05/27/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
135	06/02/2009	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
135	06/02/2009	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
134	05/27/2009	REFERENCE CAPTURE ON IDS			
134	05/27/2009	REFERENCE CAPTURE ON IDS			
133	05/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
133	05/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
132	05/29/2009	DATE FORWARDED TO EXAMINER			
132	05/29/2009	DATE FORWARDED TO EXAMINER			
131	05/27/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
131	05/27/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
130	05/29/2009	DISPOSAL FOR A RCE / CPA / R129			
130	05/29/2009	DISPOSAL FOR A RCE / CPA / R129			
129	05/29/2009	CORRESPONDENCE ADDRESS CHANGE			
129	05/29/2009	CORRESPONDENCE ADDRESS CHANGE			
128	05/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
128	05/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
127	05/27/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
127	05/27/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
126	03/03/2009	EXPORT TO INITIAL DATA CAPTURE			
126	03/03/2009	EXPORT TO INITIAL DATA CAPTURE			
125	02/27/2009	MAIL EXAMINER'S AMENDMENT			
125	02/27/2009	MAIL EXAMINER'S AMENDMENT			
124	02/27/2009	MAIL NOTICE OF ALLOWANCE	43		107

124	02/27/2009	MAIL NOTICE OF ALLOWANCE	43		107
123	02/26/2009	ISSUE REVISION COMPLETED			
123	02/26/2009	ISSUE REVISION COMPLETED			
116	10/21/2008	EXAMINER'S AMENDMENT COMMUNICATION			
116	10/21/2008	EXAMINER'S AMENDMENT COMMUNICATION			
114	10/15/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
114	10/15/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
113	10/14/2008	DOCUMENT VERIFICATION			
113	10/14/2008	DOCUMENT VERIFICATION			
112	10/14/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
112	10/14/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
111	10/14/2008	NOTICE OF ALLOWABILITY			
111	10/14/2008	NOTICE OF ALLOWABILITY			
110	09/15/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
110	09/15/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
109	09/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	107
109	09/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	107
108	10/09/2008	DATE FORWARDED TO EXAMINER			
108	10/09/2008	DATE FORWARDED TO EXAMINER			
107	09/15/2008	RESPONSE AFTER NON-FINAL ACTION		33	104
107	09/15/2008	RESPONSE AFTER NON-FINAL ACTION		33	104
106	09/15/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
106	09/15/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
105	09/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
105	09/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
104	05/13/2008	MAIL NON-FINAL REJECTION			
104	05/13/2008	MAIL NON-FINAL REJECTION			
103	05/12/2008	NON-FINAL REJECTION			

103	05/12/2008	NON-FINAL REJECTION			
102	04/21/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
102	04/21/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
101	04/21/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
101	04/21/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
100	05/01/2008	DATE FORWARDED TO EXAMINER			
100	05/01/2008	DATE FORWARDED TO EXAMINER			
99	04/21/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		4	94
99	04/21/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		4	94
98	05/01/2008	DISPOSAL FOR A RCE / CPA / R129			
98	05/01/2008	DISPOSAL FOR A RCE / CPA / R129			
97	04/21/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
97	04/21/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
96	04/21/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
96	04/21/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
95	01/21/2008	EXPORT TO INITIAL DATA CAPTURE			
95	01/21/2008	EXPORT TO INITIAL DATA CAPTURE			
94	01/17/2008	MAIL NOTICE OF ALLOWANCE			
94	01/17/2008	MAIL NOTICE OF ALLOWANCE			
93	01/16/2008	ISSUE REVISION COMPLETED			
93	01/16/2008	ISSUE REVISION COMPLETED			
92	01/16/2008	DOCUMENT VERIFICATION			
92	01/16/2008	DOCUMENT VERIFICATION			
91	01/16/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
91	01/16/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
90	01/07/2008	NOTICE OF ALLOWABILITY			
90	01/07/2008	NOTICE OF ALLOWABILITY			
89	11/29/2007	DATE FORWARDED TO EXAMINER			
89	11/29/2007	DATE FORWARDED TO EXAMINER			
88	11/20/2007	RESPONSE AFTER NON-FINAL ACTION		61	85

88	11/20/2007	RESPONSE AFTER NON-FINAL ACTION		61	85
87	11/20/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
87	11/20/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
86	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
86	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
85	06/20/2007	MAIL NON-FINAL REJECTION			
85	06/20/2007	MAIL NON-FINAL REJECTION			
84	06/18/2007	NON-FINAL REJECTION			
84	06/18/2007	NON-FINAL REJECTION			
83	06/08/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
83	06/08/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
82	06/08/2007	REFERENCE CAPTURE ON IDS			
82	06/08/2007	REFERENCE CAPTURE ON IDS			
81	06/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
81	06/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
80	06/13/2007	DATE FORWARDED TO EXAMINER			
80	06/13/2007	DATE FORWARDED TO EXAMINER			
79	06/08/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
79	06/08/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
78	06/13/2007	DISPOSAL FOR A RCE / CPA / R129			
78	06/13/2007	DISPOSAL FOR A RCE / CPA / R129			
77	06/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
77	06/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
76	06/08/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
76	06/08/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
75	03/12/2007	EXPORT TO INITIAL DATA CAPTURE			
75	03/12/2007	EXPORT TO INITIAL DATA CAPTURE			
74	03/08/2007	MAIL NOTICE OF ALLOWANCE			
74	03/08/2007	MAIL NOTICE OF ALLOWANCE			
73	03/01/2007	ISSUE REVISION COMPLETED			

72	03/01/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
71	02/15/2007	NOTICE OF ALLOWABILITY			
70	10/24/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
69	02/08/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
68	02/08/2007	REFERENCE CAPTURE ON IDS			
67.7	02/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	02/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
66	02/12/2007	DATE FORWARDED TO EXAMINER			
65	02/08/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
64	02/12/2007	DISPOSAL FOR A RCE / CPA / R129			
63	02/08/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
62	11/13/2006	EXPORT TO INITIAL DATA CAPTURE			
61	11/08/2006	MAIL NOTICE OF ALLOWANCE			
60	11/07/2006	ISSUE REVISION COMPLETED			
59	11/07/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	11/07/2006	CASE DOCKETED TO EXAMINER IN GAU			
57.7	10/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	10/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	10/30/2006	NOTICE OF ALLOWABILITY			
55	10/10/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	10/10/2006	REFERENCE CAPTURE ON IDS			
53.7	10/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	10/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	10/13/2006	DATE FORWARDED TO EXAMINER			
51	10/10/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
50	10/13/2006	DISPOSAL FOR A RCE / CPA / R129			
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48	07/10/2006	EXPORT TO INITIAL DATA CAPTURE			

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46	06/27/2006	ISSUE REVISION COMPLETED			
45	06/27/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	06/27/2006	NOTICE OF ALLOWABILITY			
43	06/16/2006	FINISHED INITIAL DATA CAPTURE			
42	04/24/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	06/09/2006	DATE FORWARDED TO EXAMINER			
40	04/24/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		5	34
39	06/09/2006	DISPOSAL FOR A RCE / CPA / R129			
38	04/24/2006	REFERENCE CAPTURE ON IDS			
37.7	04/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	04/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	04/24/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
35	01/24/2006	EXPORT TO INITIAL DATA CAPTURE			
34	01/19/2006	MAIL NOTICE OF ALLOWANCE	91		25
33	01/09/2006	ISSUE REVISION COMPLETED			
32	01/09/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
31	01/09/2006	NOTICE OF ALLOWABILITY			
30	06/20/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	07/01/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	06/20/2005	REFERENCE CAPTURE ON IDS			
27.7	06/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	06/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	12/22/2005	DATE FORWARDED TO EXAMINER			
25	06/20/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		2	19
24	12/22/2005	DISPOSAL FOR A RCE / CPA / R129			
23	07/01/2005	REFERENCE CAPTURE ON IDS			
22.7	07/01/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

22	07/01/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	06/20/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
20	03/25/2005	EXPORT TO INITIAL DATA CAPTURE			
19	03/18/2005	MAIL NOTICE OF ALLOWANCE	108		-1
18	03/17/2005	ISSUE REVISION COMPLETED			
17	03/17/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
16	03/15/2005	NOTICE OF ALLOWABILITY			
15	05/26/2004	PRELIMINARY AMENDMENT			
14	07/08/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	07/08/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	06/10/2004	APPLICATION RETURN FROM OIPE			
11	06/10/2004	APPLICATION RETURN TO OIPE			
10	06/10/2004	APPLICATION DISPATCHED FROM OIPE			
9	06/10/2004	APPLICATION IS NOW COMPLETE			
8	05/26/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		64	6
7	05/26/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	12/23/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	12/11/2003	CASE CLASSIFIED BY OIPE			
3	12/11/2003	CLEARED BY OIPE CSR			
2	11/14/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/30/2003	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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MAY 06 2005

TECHNOLOGY CENTER 3600

Charles W. Calkins
KILPATRICK STOCKTON LLP
1001 West Fourth Street
Winston-Salem, NC 27101

In re application of
Albert S. Pogue et al.
Application No. 10/677,096 :
Filed: October 01, 2003 :
For: APPARATUS AND METHOD FOR REMOVAL OF WASTE FROM ANIMAL PRODUCTION FACILITIES :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on April 13, 2005 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks a reason for the withdrawal under condition B) above.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided. Further, while a reason may be provided by referencing a specific portion of 37 CFR 10.40, the reason must deal with actions by the client. In this case, there is nothing in the file record that indicates the existence of an assignee or that the assignee is the client. Absent a 3.73(b) statement, the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case the inventors.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/pav: 04/26/05

EXPRESS MAIL NO. EV 366601715US

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

OIPE JC144 MAY 1 1 2005 PATENT & TRADEMARK OFFICE

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/677,096
Filing Date	October 1, 2003
First Named Inventor	Albert S. Pogue et al.
Art Unit	3655
Examiner Name	Nguyen, T.
Attorney Docket Number	49641/279337

APPROVED JUN 2 2005

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.

☐ all the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☐ all the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: The petitioner's client has failed to pay at least one statement for services rendered by the practitioner for an unreasonable period of time. (37 CFR 10.40(c)(1)(vi))

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.

2. ☒ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☒ Firm *or* Individual Name	Albert S. Pogue				
Address	Agriclean LLC 2925 Berry Hill Drive				
City	Nashville	State	TN	ZIP	37204
Country	USA				
Telephone	615-279-9797	Fax	615-279-9740		
Signature					
Name	Todd W. Galinski	Registration No.	51,713		
Date	5/11/05	Telephone No.	(336) 607-7300		

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.

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SAN JOSE, CA 95135

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OFFICE OF PETITIONS

In re Application of	:	
Cheng et al.	:	
Application No. 10/677,098	:	ON PETITION
Filed: September 30, 2003	:	
Attorney Docket No. KONAP001	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 20, 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 December 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)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 1, 2008. A Notice of Abandonment was mailed July 28, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114, (2) the petition fee of $770, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 2157 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.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Zhuang et al.
Application No. 10/677,099
Filed: September 30, 2003
Attorney Docket No. 14580-035001

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed September 7, 2005, to withdraw the holding of abandonment for the above-identified application.

This application became abandoned for failure to timely file a proper response to the nonfinal Office action mailed January 10, 2005, which set a three-month shortened statutory period to respond. In the apparent absence of a timely filed response, the application was held abandoned and a Notice of Abandonment was mailed on August 26, 2005.

In the present petition, applicants stated that on May 10, 2005, they submitted an amendment and a request for an extension of time for response within the first month, which included an authorization to charge any necessary fees. With the present petition, applicants submitted copies of the amendment, the request for an extension of time, and the cover sheet, all of which contained a certificate of facsimile transmission dated May 10, 2005. Additionally, applicants submitted a copy of the sending unit's report confirming transmission.

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received by the

United States Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and,

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

After reviewing the papers submitted on petition, the amendment is considered timely filed on May 10, 2005 in response to the nonfinal Office action. Accordingly, the petition is **granted**. The Notice of Abandonment is hereby vacated. The application is restored to pending status in view of the fact that a response was timely submitted on May 10, 2005.

The $120.00 extension of time fee will be charged to applicants' Deposit Account, as authorized.

The matter is being referred to the Technology Center Art Unit 2818.

Telephone inquiries 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

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SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Dimitry S. Vladimirov et al. :
Application No. 10/677,100 :
Filed: September 30, 2003 :
Attorney Docket No. 2050.2.13 :

This is a decision on the petition filed July 2, 2004, under 37 CFR 1.47(a)

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time (and fee) 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) and 1.47(a)."

The above-identified application was filed September 30, 2003 without an executed oath or declaration. Accordingly, on December 29, 2003, a "Notice To File Missing Parts Of Application" was mailed, requiring a signed oath or declaration and surcharge for its late filing.

In response, on July 2, 2004, petitioners submitted the present petition, surcharge, and a declaration naming Dimitry S. Vladimirov and Maurice J. Bayles and signed only by Mr. Bayles.

Petitioners assert that several attempts were made to reach joint inventor Vladimirov.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

Petitioners have only stated that "several attempts have been made" to reach joint inventor Vladimirov but petitioners must present a showing that diligent efforts have been made to locate, and provide a copy of the application to, the non-signing inventor.[1] At a minimum, petitioners should provide a copy of the cover letter transmitting the application papers (specification including claims, drawings, if any, and the Declaration) 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. If the application is returned as undeliverable, petitioners should submit a copy of the envelope showing that the application was mailed to the inventor(s) last known address but was returned as undeliverable by the post office.

Additionally, if an inventor(s) cannot be reached at his or her last known address, petitioners must provide **details**, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the efforts, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate that inventor, send or give a copy of the application papers to him or her, and request that he or she sign and return the declaration. If repeated attempts to contact an inventor(s) by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that an inventor(s) cannot be found despite diligent efforts.

If an inventor refuses in writing to sign the declaration, petitioners should submit that written refusal with any renewed petition. If an inventor refuses orally, then the person to whom that oral refusal was made 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 Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497. Please note, effective September 24, 2004, the telephone number for the Office of Petitions will be changed to (571) 272-3232.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] MPEP 409.03(d).

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RYAN KROMHOLZ & MANION SC
PO BOX 26618
MILWAUKEE WI 53226

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OFFICE OF PETITIONS

In re Application of	:	
Machold, et al.	:	
Application No. 10/677,104	:	DECISION ON PETITION
Filed: October 1, 2003	:	
Attorney Docket No. 9542.18428-FOR	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 12, 2004, which is also being treated as a petition under 37 CFR 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 priority to nonprovisional application no. 09/666,617, international application no. PCT/US 02/31376, and provisional application no. 60/326,590.

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 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application(s),unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

> (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The amendment submitted concurrently with the instant petition as drafted is unacceptable, and therefore is not considered a proper reference under 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i). In this regard, the amendment is physically part of the instant petition, and as such, does not comply with 37 CFR §§ 1.121, 1.52, or 1.4(c). Note that 37 CFR § 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR § 1.52 states that the claim (in this case, the claim for priority) must commence on a separate physical sheet. 37 CFR § 1.4(c) states that each distinct subject matter must be contained in a separate paper since different matters may be considered by different branches of the Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable. Accordingly, a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By fax: (571)273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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PO BOX 26618
MILWAUKEE WI 53226

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OFFICE OF PETITIONS

In re Application of :
Machold, et al. :
Application No. 10/677,104 : DECISION ON PETITION
Filed: October 1, 2003 :
Attorney Docket No. 9542.18428-FOR :

This is a decision on the renewed petition under 37 CFR 1.78, filed September 12, 2005, which is being treated as a petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 365 (c), and 119(e) for the benefit of priority to nonprovisional application no. 09/666,617, international application no. PCT/US 02/31376, and provisional application no. 60/326,590.

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 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application(s),unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

> (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant application was filed on October 1, 2003, and was pending at the time of filing of the instant petition. 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 37 CFR § 1.78(a)(5)(iii).

Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. 120 and 37 CFR 1.78 must be met. Accordingly, the examiner will, in due course, consider this benefit claims and determine whether the instant application is entitled to the benefit of the earlier filing date.

The application is being forwarded to Group Art Unit 3738 for consideration of the Amendment filed September 12, 2005, including consideration by the Examiner of applicants' claim for the benefit of priority to the prior-filed applications.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Frances Hicks
Petitions Examiner
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 04/21/2010

Applicant	: Christoph Hofmann	: DECISION ON REQUEST FOR
Patent Number	: 7603476	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/677,112	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1125** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of	:	
Odamura et al.	:	
Application Number: 10/677122	:	ON PETITION
Filing Date: 10/01/2003	:	
Attorney Docket Number: 1300-000005	:	

This is a decision on the "PETITION UNDER 37 C.F.R. 1.10(e) FOR RETROACTIVE FILING DATE," filed on 19 September, 2007, which is treated as a petition to withdraw the holding of abandonment in the above-identified application. This is also a decision on the "ALTERNATIVE PETITION UNDER 37 CFR 1.137(b) FOR REVIVAL OF UNINTENTIONALLY ABANDONED APPLICATION."

The petition to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

A review of the record reveals that a final Office action was mailed on 8 March, 2007, setting a three (3) month shortened statutory period for reply. No response having been timely received, the application was held abandoned on 9 June, 2007. The filing of the present petition precedes the mailing of Notice of Abandonment.

On 19 September, 2007, a Request for Continued Examination (RCE) Transmittal, a three (3) month extension of time and the required fee, and an amendment as the submission required under 37 CFR 1.114 were received, along with the present petition. The RCE Transmittal itemizes the filing of the three (3) month extension of time and the submission under 37 CFR 1.114.

Petitioner alleges that the reply to the final Office action mailed on 8 March, 2007, was deposited in "Express Mail" service

with the U.S. Postal Service on 10 September, 2007. In support, petitioners have supplied a copy of Express Mail label no. EV 755419224US (the same Express Mail number found on the RCE Transmittal sheet. The Express Mail label contains a "date-in" of "9 10 07".

37 CFR 1.10(c) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In", or other evidence from the USPS on the Express Mail label.[1] That is the date that verifies that the package was actually mailed. In view of the above, the showing of record is that the correct date of deposit of the RCE Transmittal, amendment, and petition for extension of time in Express Mail is 10 September, 2007.

---

[1] MPEP 513.

As such, the RCE, fee, and submission were timely filed on 10 September, 2007, in response to the final Office action mailed on 8 March, 2007.[2]

In view of the above, the petition is granted. No petition fee is required.

As petitioners have provided convincing evidence that a response to the final Office action mailed on 8 March, 2007, was filed on 10 September, 2007, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

As the holding of abandonment is withdrawn, the petition under 37 CFR 1.137(b) is DISMISSED as involving a moot issue.

The application is being referred to Technology Center Art Unit 1794 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[2] As 8 September, 2007, fell on a Saturday, the response filed on Monday, 10 September, 2007, was a timely response. 37 CFR 1.7(a)

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TOWER60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

In re Application of	:	
Krumm, et al.	:	
Application No. 10/677,125	:	ON PETITION
Filed: September 23, 2003	:	
Attorney Docket No. 13768.783.73.1	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed July 23, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed January 16, 2009. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on April 17, 2009. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

With the instant petition, applicants made the proper statement of unintentional delay, paid the petition fee, and filed the required reply in the form of an Amendment.

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. Accordingly, since the $1110.00 extension of time fee submitted with the petition on July 23, 2009 was subsequent to the maximum period obtainable for reply

(July 16, 2009), this fee has been refunded to petitioner's credit card.

The application is being forwarded to Group Art Unit 2436 for consideration of the Amendment, filed July 23, 2009.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

/Cliff Congo/
Cliff Congo
Petitions Attorney
Office of Petitions

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Paper No.

TOWNSEND AND TOWNSEND
AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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SEP 03 2008

OFFICE OF PETITIONS

In re Application of :
Balint et al. :
Application No. 10/677,131 : LETTER REGARDING
Filed: September 30, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No.021167-001100US:

This is in response to the "COMMUNICATION - LETTER OF CANDOR AND GOOD FAITH REGARDING PATENT TERM ADJUSTMENT," filed July 8, 2008. Pursuant to their duty of candor and good faith to the Office, applicants request review of the patent term adjustment indicated on the Notice of Allowance.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is forty-four **(44)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 9, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 211 days. Applicants request review of any adjustments to the Patent Term as a result of the submission of the Request for Continued Examination (RCE) filed on October 22, 2007 and the Supplemental Amendment filed on January 3, 2008 in response to the Final Office action of April 20, 2007.

A review of the record confirms that in response to the Office action mailed April 20, 2007, applicant did not file an RCE

until October 22, 2007, three months and 94 days later. As such, a period of reduction of 94 days should have been entered pursuant to 37 CFR 1.704(b).

In addition, after the filing of the RCE on October 22, 2007, on January 3, 2008, applicants filed a supplemental response. This response was not expressly requested by the examiner. As such a period of reduction of 73 days should have been entered pursuant to 37 CFR 1.704(c)(8).

As such, the correct initial determination of the patent term adjustment at the time of the mailing of the notice of allowance is forty-four (44) days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks Applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded and the period is not consumed by the request for continued examination).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Saturday
Date: 8/30/2008

PALM INTRANET

Time: 17:32:19

PTA Calculations for Application: 10/677131			
Application Filing Date:	09/30/2003	PTO Delay (PTO):	309
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	98
Post-Issue Petitions:	0	Total PTA (days):	44
PTO Delay Adjustment:	-167		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
70	08/30/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		73	
69	08/30/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		94	
61	04/09/2008	MAIL NOTICE OF ALLOWANCE			
60	04/08/2008	ISSUE REVISION COMPLETED			
59	04/07/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
58	04/07/2008	DOCUMENT VERIFICATION			
57	04/02/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
56	03/31/2008	EXAMINER'S AMENDMENT COMMUNICATION			
55	03/31/2008	NOTICE OF ALLOWABILITY			
54	01/08/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
53	08/23/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	10/22/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	03/13/2008	PARALEGAL TD ACCEPTED			
50	01/03/2008	TERMINAL DISCLAIMER FILED			
49	01/16/2008	DATE FORWARDED TO EXAMINER			
48	01/03/2008	SUPPLEMENTAL RESPONSE			
47	01/04/2008	PARALEGAL TD NOT ACCEPTED			
46	10/22/2007	REFERENCE CAPTURE ON IDS			
45	10/22/2007	IDS WITH 1 MO. CERTIFICATION STATEMENT			
44	10/25/2007	DATE FORWARDED TO EXAMINER			
43	10/22/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
42	10/25/2007	DATE FORWARDED TO EXAMINER			

41	10/22/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
40	10/25/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
39	10/22/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	10/22/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	10/22/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
36	08/23/2007	REFERENCE CAPTURE ON IDS			
35	08/23/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	08/23/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	04/20/2007	MAIL FINAL REJECTION (PTOL - 326)			
32	04/16/2007	FINAL REJECTION			
31	02/09/2007	DATE FORWARDED TO EXAMINER			
30	01/19/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
29	01/19/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	11/15/2006	MAIL RESTRICTION REQUIREMENT			
27	11/13/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
26	09/11/2006	DATE FORWARDED TO EXAMINER			
25	08/29/2006	RESPONSE AFTER NON-FINAL ACTION		98	22
24	08/29/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	02/23/2006	MAIL NON-FINAL REJECTION			
21	02/21/2006	NON-FINAL REJECTION			
20	11/07/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	11/07/2005	REFERENCE CAPTURE ON IDS			
18.7	11/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	16
18	11/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	11/21/2005	DATE FORWARDED TO EXAMINER			
16	11/07/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
15	10/05/2005	MAIL RESTRICTION REQUIREMENT	309		-1
14	10/03/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
13	06/24/2005	IFW TSS PROCESSING BY TECH CENTER			

		COMPLETE			
12	06/24/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	03/27/2004	APPLICATION RETURN FROM OIPE			
10	03/27/2004	APPLICATION RETURN TO OIPE			
9	03/26/2004	APPLICATION DISPATCHED FROM OIPE			
8	03/29/2004	APPLICATION IS NOW COMPLETE			
7	02/11/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	02/11/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	12/22/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	12/11/2003	CASE CLASSIFIED BY OIPE			
3	12/11/2003	CLEARED BY OIPE CSR			
2	11/14/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/30/2003	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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OFFICE OF PETITIONS

BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

In re Application of	:	
Kostantinos Adam	:	
Application No. 10/677,136	:	DECISION ON PETITION
Filed: September 30, 2003	:	TO WITHDRAW
Attorney Docket No. 010030-001710US	:	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 14, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Beyer Weaver LLP has been revoked by the applicant of the patent application on March 26, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed on November 20, 2006 that requires a reply by applicant.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: TRELLIS INTELLECTUAL PROPERTY
LAW GROUP, PC
ATTN: CHARLES KULAS
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

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JACKSON & CO., LLP
6114 LA SALLE AVENUE
SUITE 507
OAKLAND, CA 94611-2802

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OFFICE OF PETITIONS

In re Application of
STEINBERG, ERAN et al.
Application No. 10/677,139
Filed: September 30, 2003
Attorney Docket No. **FN104-C**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to JACKSON & CO., LLP has been revoked by the assignee of the patent application on October 17, 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **FOTONATION, INC.**
IP DEPT.
800 AIRPORT BLVD.
SUITE 522
BURLINGAME, CA 94010

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#507
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OFFICE OF PETITIONS

In re Application of	:	
Eran Steinberg, et al.	:	
Application No. 10/677,140	:	DECISION ON PETITION
Filed: September 30, 2003	:	TO WITHDRAW
Attorney Docket No. FN104-D	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Jackson & Co., LLP has been revoked by the assignee of the patent application on October 16, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: FOTONATION IP DEPT
800 AIRPORT BLVD.
SUITE 522
BURLINGAME, CA 94010

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of
Schwarz et al.
Application No. 10/677,142
Filed: 09-30-2003
Attorney Docket No. 1825.001US1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed June 4, 2007, to withdraw the holding of abandonment. This is also a decision on the petition under 37 CFR 1.137(b), filed June 15, 2007, to revive the above-identified application.

This application became abandoned for failure to submit an oath or declaration as required by the Notice of Allowability mailed on November 16, 2006, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on February 17, 2007. A Notice of Abandonment was mailed on May 22, 2007.

Petitioner requested that the Office withdraw the petition under 37 CFR 1.181 filed June 4, 2007. Therefore, the petition under 37 CFR 1.181 is **dismissed** as involving a moot issue. As to the petition to revive, petitioner has met the requirements under 37 CFR 1.137(b), in the petitioner submitted the required reply, paid the petition fee, and made a proper statement of unintentional delay. Accordingly, the petition under 37 CFR 1.137(b) 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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JAMES RAY & ASSOCIATES
2640 Pitcairn Road
Monroeville, PA 15146

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OFFICE OF PETITIONS

In re Application of
Francois Lecoester
Application No. 10/677,185
Filed: October 2, 2003
Attorney Docket No. CBL 03262

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on October 20, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed January 20, 2006. A Notice of Abandonment was mailed on August 23, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of $120 for a one (1) month extension of time filed on October 20, 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 $120 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card, in due course.

This application file is being referred to Technology Center Art Unit 1742, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Gregory S. Glenn	: DECISION ON REQUEST FOR
Patent Number	: 7592536	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/677,191	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/02/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1819** 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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Steven M. Mills
MILLS & ONELLO LLP
Suite 605
Eleven Beacon Street
Boston, MA 02108

Mail Date: 04/21/2010

Applicant	: Je-kook Kim	: DECISION ON REQUEST FOR
Patent Number	: 7616537	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/677,192	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/02/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1232** 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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R. CHRISTIAN MACKE
40 EAST 10TH STREET
NEWPORT, KY 41071

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OFFICE OF PETITIONS

In re Application of	:	
David Croop et al	:	
Application No. 10/677,195	:	DECISION ON PETITION
Filed: October 2, 2003	:	
For: SELF CLEANING DENTAL MIRROR	:	

This is a decision on the petition, filed October 30, 2006, resubmitted on November 3, 2006, and supplemented on March 28, 2007, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action of December 29, 2005, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before March 30, 2006, or on or before June 29, 2006, with extensions of time under 37 CFR 1.136(b). A Notice of Abandonment was mailed on October 13, 2006.

Petitioner states that a timely reply was transmitted by facsimile transmission on May 11, 2006, and mailed also via certificate of mailing on May 11, 2006, which included a reply to the non-final Office action and a check in the amount of $225 to cover a two month extension of time fee (a copy of which was received on March 28, 2007). Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing, dated May 11, 2006, which would have rendered the reply timely if received. Petitioner has also submitted an affidavit attesting to the fact that he has personal knowledge that a reply was faxed on May 11, 2006 and, further, that a check for $225, along with the reply, was also mailed via certificate of mailing on May 11, 2006. Petitioner further states that he personally signed the certificate of mailing, "put the contents into the envelope" and is "personally aware that check number 2095 was enclosed therewith."

The faxed reply to the non-final Office action of December 29, 2005 was received on May 11, 2006 and is of record in the file; however, the reply and $225 check for the two (2) month extension of time mailed via certificate of mailing has not to date been associated with this file. It is noted that the reply, under the "Remarks" section, references the enclosure of a check in the amount of $225 for the extension of time fee.

The correspondence including the $225 check has not to date been located. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement, which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of December 29, 2006 is hereby withdrawn and

the application restored to pending status. The Notice of Abandonment mailed on October 13, 2006 is vacated.

The copy of the reply and fee of $225 received on October 30, 2006 and November 3, 2006 will be accepted in place of the reply mailed via certificate of mailing on May 11, 2006.

This application is being referred to Technology Center AU 3732 for appropriate action in the normal course of business on the reply to the non-final Office action of December 29, 2005.

Frances Hicks
Petitions Examiner
Office of Petitions

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Schwabe, Williamson, & Wyatt, P.C.
Pacwest Center, Ste. 1600-1900
1211 SW Fifth Ave.
Portland, Or. 97204

PROCESSED BY
PG PUB DIVISION
NOV 1 2004

Applicant: Serge J.A. Bierhulzen
Appl. No.: 10/677,201
Filing Date: October 1, 2003
Title: EFFICIENT ILLUMINATION SYSTEMS FOR REDUCED ENTENDUE COLOR VIDEO PROJECTION SYSTEMS
Attorney Docket No.: 10773-132926
Pub. No.: US 2004/0070847 A1
Pub. Date: April 15, 2004

This is a decision on the request for corrected patent applications publication under 37 CFR 1.221 (b), filed on June 10, 2004 for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains on the front page of the publication the incorrect Assignee name "Heraeus Shin-Etsu America" should read "InFocus Corporation".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor is an Office error, but it is not a material mistake as required under 37 CFR 1.221(b). The failure to provide the correct assignment information on the front page of the patent application publications does not 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] 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).

On January 2, 2004, a Filing Receipt was mailed, which listed the assignee information from "Heraeus Shin-Etsu America". To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt accompanied by an ADS to correct the error on the Declaration.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 703-872-9306

Inquiries relating to this matter may be directed to Shelby Pittman (703) 305-8169 (voice).

Shelby Pittman, for

Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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APR 21 2006

OFFICE OF PETITIONS

KOPPEL, PATRICK & HEYBL
555 ST. CHARLES DRIVE
SUITE 107
THOUSAND OAKS CA 91360

In re Application of	:
Reyes, et al.	: DECISION ON PETITION
Application No. 10/677,203	:
Filed: October 1, 2003	:
Atty. Dkt. No.: 381-27-064	:

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned May 8, 2005 for failure to timely submit a proper reply to the Office communication mailed April 7, 2005. The Notice set a one month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed November 1, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Office communication is accepted as having been unintentionally delayed.

This application will be forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 0 2 2007

OFFICE OF PETITIONS

Koppel Patrick & Heybl
555 St. Charles Drive
Suite 107
Thousand Oaks, CA 91360

In re Application of	:	
Jeremiah G. Reyes et al.	:	
Application No. 10/677,203	:	DECISION ON PETITION
Filed: October 1, 2003	:	TO WITHDRAW
Attorney Docket No. 381-27-064	:	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 12, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***file is being transferred to another firm***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Dave Divine**
Lee & Hayes
421 West Riverside, Suite 500
Spokane, WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Koppel Patrick & Heybel
555 St. Charles Drive
Suite 107
Thousand Oaks, CA 91360

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Jeremiah G. Reyes et al.	:	
Application No. 10/677,203	:	DECISION ON PETITION
Filed: October 1, 2003	:	TO WITHDRAW
Attorney Docket No. TL1-0102USC1	:	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 20, 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 Jaye G. Heybel on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is 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: **Jeremiah G. Reyes**
274 Calle Esperanza
Santa Barbara, CA 93105

cc: **Dave Divine**
Lee & Hayes
421 West Riverside, Suite 500
Spokane, WA 99201

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
10/677,203	10/01/2003	Jeremiah G. Reyes	381-27-064

CONFIRMATION NO. 9619

POWER OF ATTORNEY NOTICE

23935
KOPPEL, PATRICK & HEYBL
555 ST. CHARLES DRIVE
SUITE 107
THOUSAND OAKS, CA 91360

OC000000026323643

Date Mailed: 01/15/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/14/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/dolipscomb/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Tyco Healthcare Group LP
60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

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JUN 25 2008

OFFICE OF PETITIONS

In re Application of Cunningham :
Application No. 10/677,208 :
Filing Date: October 2, 2003 :
Attorney Docket No. 2874 (203-3510) :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed March 17, 2008, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

Facts:

The Office mailed a non-final Office action on August 9, 2007.

Petitioner filed a reply to the Office action and a request for a two-month extension of time on January 11, 2008. The Certificate of Mailing date on the reply was January 9, 2008.

The reply papers inadvertently listed the application number as 10/667,208, rather than 10/677,208. The reply papers were matched with the incorrect application.

A reply was not matched with the instant application. As a result, the application was held abandoned and a Notice of Abandonment was mailed on February 14, 2008.

Discussion:

At the discretion of the Office, a paper listing an incorrect application number may be considered timely and proper. The Office will accept papers as timely filed if the following criteria are met:

(1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.
(2) The papers contained sufficient information for the Office to determine the correct application number.

Petitioner has satisfied both criteria listed above.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The papers filed January 11, 2008, have been transferred to the correct application file.

Upon receipt of the January 11, 2008, the Office charged $460 for a two-month extension of time and $150 for excess claims to petitioner's deposit account. These fees have now been credited to the instant application.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee has been credited back to petitioner's deposit account.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a 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.

Technology Center Art Unit 3734 will be informed of the instant decision. The papers filed January 11, 2008, will be entered into Office PALM records and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Carter, DeLuca, Farrell & Schmidt, LLP
Suite 225
445 Broad Hollow Road
Melville, NY 11747

SPE H. Yuen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/677,268

DATE : 9/15/05

Paper No.: _____

TO SPE OF : ART UNIT 3747

SUBJECT : Request for Certificate of Correction on Patent No.: 6912983

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Lamonte M. Newsome
Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments:

Each of the proposed corrections, changes the scope of the claims.

Stephen K. Cronin
Primary Examiner
Spe 3747

SPE

3747
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : 06/06/06

Patent No. :6912983 B2
Patent Issued : 07/05/05
Docket No. : **2003-1368A**

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.

Respecting the alleged error(s), in columns 22, 23, 24, 25 and 26, lines 55, 30, 49, 55, 62 and 5; each of the proposed corrections, change the scope of the claims. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081030

DATE : October 30, 2008

TO SPE OF : ART UNIT 2432

SUBJECT : Request for Certificate of Correction on Patent No.: 7,367,053

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - 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:

typographic corrections are approved

/Gilberto Barron Jr./
Supervisory Patent Examiner.Art Unit 2432

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Sep. 1, 2006

TO SPE OF : ART UNIT 2891 **(S.P.E. Bradley Baumeister)**

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/677278 Patent No.: 7011992

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**.

STAN POWELL

Certificates of Correction Branch

703-308-9390 ext. 120

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: _____

B. WILLIAM BAUMEISTER
SUPERVISORY PATENT EXAMINER

SPE 2891 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mailed: 9-29-06

caj

In re application of :
Kouji Harada : DECISION ON
Serial No. 10/677,291 : PETITION
Filed: October 3, 2003 :
For: METHOD OF BONDING METALLIC MEMBERS BY PLASTIC-FLOW BONDING AND PLASTIC-FLOW BONDED BODY

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed March 6, 2006.

On March 6, 2006, a final rejection was mailed by the examiner containing a rejection of all of the elected claims under 35 USC 102 and Obviousness-type Double Patenting. Applicants responded to this office action with a response, including various amendments to the claimed, filed August 7, 2006. The examiner refused entry of the amendment after final rejection in an advisory action mailed August 29, 2006.

On September 6, 2006, the instant petition under 37 CFR 1.181 was filed to formally request the withdrawal of finality of the March 6, 2006 office action.

Applicant's position for the withdrawal of the finality is that the examiner indicated on form PTOL-326 that the action was non-final while the office action stated that the action was final, thereby creating ambiguity as to the status of the office action.

DECISION

Rule 1.181, Section (f) states:

§ 1.181 Petition to the Commissioner.
(f) 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

The instant petition was filed six months after the final rejection was mailed. Also, no previous request has been made to withdraw the finality of the office action. This is clearly not a timely filed petition. Accordingly, the instant petition is **DISMISSED.** It is noted that Applicants have filed a proper Request for Continued Examination concurrently with the instant petition.

The application is being forwarded to the examiner in order to prepare a response to the RCE.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, D.C. 20044-4300

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/677,349	10/01/2003	2824	996	SNDK.212US1	4	23	5

CONFIRMATION NO. 9812

CORRECTED FILING RECEIPT

OC000000012564469

36257
PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO, CA 94111

Date Mailed: 05/11/2004

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)

Raul Adrian Cernea, Santa Clara, CA;

Assignment For Published Patent Application

SanDisk Corporation, a corporation of the State of Delaware, Sunnyvale, CA;

Domestic Priority data as claimed by applicant

This application is a CON of 09/956,201 09/17/2001 PAT 6,741,502

Foreign Applications

If Required, Foreign Filing License Granted: 02/12/2004

Projected Publication Date: 08/19/2004

Non-Publication Request: No

Early Publication Request: No

Title

Background operation for memory cells

Preliminary Class
365

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

MATTINGLY, STANGER & MALUR, P.C.
Suite 370
1800 Diagonal Road
Alexandria VA 22314

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MAY 03 2004
OFFICE OF PETITIONS

In re Application of	
Jun Maede et al.	
Application No. 10/677,355	DECISION ON PETITION
Filed: October 3, 2003	
Attorney Docket No.:	
KY-193	
Title: ORGANIC EL ELEMENT DRIVE	
CIRCUIT AND ORGANIC EL DISPLAY	
DEVICE USING THE SAME DRIVE	
CIRCUIT	

This is a decision on the petition filed January 23, 2004, requesting that the above-identified application, including Figures one through three, be accorded a filing date of October 3, 2003 as part of the original disclosure.

The application was deposited on October 3, 2003. However, on January 5, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application (notice)", stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the receipt of drawings.

In response, on January 23, 2004, applicants filed the present petition. The petition is further accompanied by a copy of Figures one through three, along with a copy of applicants' postcard receipt acknowledging receipt of "2 sheets drawings (Figs. 1-3)" in the United States Patent and Trademark Office (Office) on October 3, 2003. Applicants request that the application, including Figures one through three, be accorded a filing date of October 3, 2003.

It is noted that no drawings have been located in the electronic file.

Upon review of the record, the above-mentioned figures have not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 3, 2003 included Figures one through three, and the sheets containing these Figures were subsequently misplaced in the Office.

Therefore, the application, including Figures one through three, were complete on filing and entitled to a filing date of October 3, 2003 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed January 5, 2004 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 has not been charged to Petitioner's Deposit Account.

The application file is being returned to OIPE for further processing with a filing date of October 3, 2003, using the original application papers filed on that date, as well as Figures one through three submitted on January 23, 2004. OIPE will then mail a corrected filing receipt.

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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JAN 18 2007

OFFICE OF PETITIONS

LOWE HAUPTMAN BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

In re Application of
Chia-Chen Lee
Application No. 10/677,365
Filed: October 3, 2003
Attorney Docket No. 3074-113

ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed October 21, 2006.

The petition under 37 CFR 1.181(a) is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the non-final mailed March 28, 2005. The notice set a shortened statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on June 29, 2005. A Notice of Abandonment was mailed on October 21, 2005.

Petitioner maintains that the notice was never received and that the holding of abandonment should be withdrawn, accordingly.

A review of the application file and the Office computer records reveals that on March 28,2 005, (the date the notice was mailed), the address of record was cited as " Dennison, Schultz & Dougherty, 612 Crystal Square 4, 1745 Jefferson Davis Highway, Arlington, VA 22202-3417." The notice was mailed to this address and returned to the USPTO as undeliverable. One October 13, 2005, the correspondence address for the application was changed to "Lowe, Hauptman, Berner, LLP, 1700 Diagonal Road, Suite 300, Alexandria, VA 22314." Petitioner argues that the holding of abandonment should be withdrawn because the notice was not received at Lowe, Hauptman, and Berner.

Petitioner's argument is not persuasive. Petitioner has not demonstrated that "Lowe, Hauptman, Berner, LLP, 1700 Diagonal Road, Suite 300, Alexandria, VA 22314" was the correct address of record on the date the notice was mailed. Applicants are required to provide the USPTO with a timely notification of a change of correspondence address and withdrawal of a holding of abandonment would not be appropriate when a notice is mailed, but there was a material change in a correspondence address and petitioner failed to provide timely notice same. A review of the application file reveals that the declaration filed October 3, 2003, list the address of Dennison, Schultz, & Dougherty as the correspondence address of record and that no customer number was found on the application transmittal sheet. In this case, a material change was made to the correspondence address. The record reflects that applicant did not inform the Office of the change in the correspondence address until October 13, 2005. Accordingly, petitioner's failure to receive the notice at Lowe, Hauptman, Berner, LLP does not merit withdrawal of the holding of

abandonment because petitioner did not notify the USPTO of the change of correspondence address to Lowe, Hauptman, Berner, LLP until after the non-final Office action was mailed. The petition is dismissed accordingly.

Petitioner may file a petition under 37 CFR 1.137(b) to revive the application. The fee for the petition is $1500.00 large entity or $750.00 for a small entity.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
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
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APR 30 2007

OFFICE OF PETITIONS

LOWE HAUPTMAN BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

In re Application of

Chia-Chen Lee

Application No. 10/677,365

Filed: October 3, 2003

Attorney Docket No. 3074-113

DECISION ON PETITION

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed February 6, 2007.

The renewed petition is **granted**.

The above-identified application became abandoned for failure to reply to the non-final mailed March 28, 2005. The notice set a shortened statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on June 29, 2005. A Notice of Abandonment was mailed on October 21, 2005.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 3600, GAU 3636 for resetting of the time period for responding to the non-final Office action.

Questions 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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MAY 25 2003

CARL A. KUKKONEN, III
C/O WUESTHOFF & WUESTHOFF
SCHWEIGERSTRASSE 2
MUNICH 81541 DE
GERMANY

In re Application of	:
Sandeep Gulati.	:
Serial No.: 10/677,402	: PETITION TO MAKE SPECIAL
Filed: October 1, 2003	:
Attorney Docket No.: VIALO-28	:

This is in response to applicants' petition filed March 3, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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CARL A. KUKKONEN, III
C/O WUESTHOFF & WUESTHOFF
SCHWEIGERSTRASSE 2
MUNICH 81541 DE
GERMANY

In re Application of	:
Sandeep Gulati.	:
Serial No.: 10/677,~~43~~ 463	: PETITION TO MAKE SPECIAL
Filed: October 1, 2003	:
Attorney Docket No.: VIALO-27	:

This is in response to applicants' petition filed March 3, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

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AUG 3 1 2007

OFFICE OF PETITIONS

In re Application of Takenaka :
Application No. 10/677,408 :
Filing Date: October 1, 2003 :
Attorney Docket No. 5095-4070 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed April 12, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application was deemed abandoned for failure to reply in a timely manner to the non-final Office action including a requirement for restriction/election mailed August 25, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application was considered abandoned as of September 26, 2006. A Notice of Abandonment was mailed April 6, 2007.

Petitioner states a reply was timely mailed on September 22, 2006. Petitioner states the reply included a transmittal sheet and a response to the restriction requirement. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing date of September 22, 2006, which is on or before the due date of September 25, 2006.

One may prove the timely filing of papers by providing a showing in compliance with 37 CFR 1.8(b).

37 CFR 1.8(b) states,

> 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 ..., the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of August 25, 2006, is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed on September 22, 2006.

This application is being referred to Technology Center Art Unit 3682 for appropriate action in the normal course of business on the reply received with petition.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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POLSTER, LIEDER, WOODRUFF & LUCCHESI
12412 POWERSCOURT DRIVE SUITE 200
ST. LOUIS, MO 63131-3615

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OFFICE OF PETITIONS

In re Application of	:	
Joseph E. Schroeder	:	
Application No. 10/677,443	:	DECISION ON PETITION
Filed: October 2, 2003	:	UNDER 37 CFR 1.181
Attorney Docket No. NOOT 8500U1	:	

This is a decision on the petition filed October 5, 2004, under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **dismissed**.

Any request for reconsideration should be filed within two (2) months from the mailing date of this decision. *Note* 37 CFR 1.181(f).

This application was held abandoned for failure to timely reply to the Office action (Notice) mailed March 29, 2004, which set a shortened statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 29, 2004.

Petitioner asserts that failure to timely reply was due to nonreceipt of the Notice of March 29, 2004.

The Office follows the guidelines set forth in MPEP § 711.03(c) (see also "Withdrawing the Holding of Abandonment When Notices Are Not Received," 1156 *Official Gazette* 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Notice was properly mailed to practitioner at the address of record.

A review of the written record indicates no irregularity in the mailing of the Notice and is presumed to have been properly mailed to 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 a statement from petitioner stating that the Notice was not received and attesting to the fact that a search of the file jacket and docket records

indicates that the Notice was not received. **A copy of the docket record where the nonreceived Notice would have been entered had it been received must be attached to and referenced in petitioner's statement.**

Petitioner attests to the fact that he has "personally reviewed the **file jacket** and could find no office action or any reference of the Notice of March 29, 2004. In support of nonreceipt of the Notice of March 29, 2004, petitioner has submitted a copy of the computer docket report showing all patent-related matters in the firm that required attention on June 29, 2004.

While petitioner has submitted a copy of the firm's database showing receipt of all items docketed for June 29, 2004, the showing is incomplete in that petitioner has not submitted a copy of the referenced file jacket which should show entries of all actions from the USPTO. The evidence required to establish nonreceipt should include a copy of **all** records maintained by the firm which would corroborate nonreceipt of the action at issue.

For the reasons stated above, the petition to withdraw the holding of abandonment cannot be granted at this time.

If petitioner cannot provide evidence of the nature required above or simply does not wish to, petitioner may wish to consider filing a petition under the unintentional provisions of 37 CFR 1.137(b). Public Law 97-247, which revised patent and trademark fees, provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." See 37 CFR 1.137(b) in effect as of December 1, 1997. *Note Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 (October 10, 1997), 1203 Off. Gaz. Patent Office 63 (October 21, 1997).* An "unintentional" petition must be accompanied by the required petition fee.

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 of unintentional delay is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the Notices mailed March 29, 2004 accompanies this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
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) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Copy of Notices mailed January 18, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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POLSTER, LIEDER, WOODROFF & LUCCHESI
12412 POWERSCOURT DRIVE SUITE 200
ST. LOUIS MO 63131-3615

In re Application of	:	
Joseph E. Schroeder	:	
Application No. 10/677,443	:	ON PETITION
Filed: October 2, 2003	:	
Attorney Docket No. NOOT 8500U1	:	

This is a decision on the renewed petition, filed January 23, 2006, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The holding of abandonment is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being forwarded to Technology Center AU 3749.

Karen Creasy
Petitions Examiner
Office of Petitions

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JAN 13 2006

TECHNOLOGY CENTER 3600

CNH America LLC
Intellectual Property Law Department
700 State Street
Racine, WI 53404

In re Application of :
Travis Harnetiaux :
Application No. 10/677,447 :
Filed: October 2, 2003 :
For: METHOD AND APPARATUS FOR BLOCKING AIR FORM A SEED PLANTER

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 September 20, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that a First Office action rejection was mailed on February 12, 2004, setting a three-month shortened statutory period for response. Since a reply was not received from applicant before the expiration of the six-month statutory period for response, the application became abandoned at midnight on August 12, 2004. A Notice of Abandonment was mailed on August 19, 2004.

The present petition indicates that a response was filed by mail on May 12, 2004. In support thereof, petitioner submits a copy of a response, which includes a Certificate of Mailing signed by Tom Vita, and dated May 12, 2004. Petitioner further includes a copy of a postcard receipt dated May 17, 2004. Since the postcard receipt has a date stamp outside the period for reply, which ended at midnight on May 12, 2004, and no extensions of time were purchased, applicant cannot rely on the postcard receipt and must rely on the Certificate of Mailing, dated May 12, 2004, to show that the response was timely filed.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must provide the following:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) <u>by the person who signed the certificate</u> attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petition fails under requirement (2) to provide a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of sending the original response by mail on the date indicated on the certificate, by the person who signed the certificate, in this instance Tom Vita.

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 1.181."

for

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/rwg: 2/01/05

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700 STATE STREET
RACINE, WI 53404

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Travis Harnetiaus	:	
Application No. 10/677,447	:	
Filed: October 2, 2003	:	
Attorney Docket No. CNH-17327	:	

This is a decision on the renewed petition under 37 CFR 1.181, filed February 3, 2006, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed February 12, 2004. Accordingly, this application became abandoned on May 13, 2004. A Notice of Abandonment was mailed on August 19, 2004.

Petitioner asserts that a response to the February 12, 2004 Office action was submitted timely on May 12, 2004. In support, petitioner has submitted a copy of the originally filed response. The response includes an executed Certificate of Mailing under 37 CFR 1.8 dated May 12, 2004. [1] Additionally, petitioner has submitted a statement under 37 CFR 1.8(b)(3) by Thomas P. Vita, Jr., the person who signed the Certificate of Mailing.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

This application is being forwarded to Technology Center 3600, for review of the response to the non-final Office action, filed May 17, 2004 (Certificate of Mailing date: May 12, 2004), *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] It is noted that the original submission is also found in the application file. The papers are date-stamped as received by the USPTO on May 17, 2004 and do contain an executed Certificate of Mailing under 37 CFR 1.8 dated May 12, 2004. However, the papers erroneously identify serial number 10/677,477.

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HAYES SOLOWAY P.C.
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3450 E. SUNRISE DRIVE
TUCSON, AZ 85718

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In re Application of	:	
Sion M. Pickard et al	:	
Application No. 10/677,454	:	ON PETITION
Filed: October 2, 2003	:	
Attorney Docket No. MER 03.02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 31, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 1, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1742 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OLIFF & BERRIDGE
P.O. BOX 19928
ALEXANDRIA, VA 22320

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OFFICE OF PETITIONS

In re Application of :
Takumi Seki et al :
Application No. 10/677,487 :
Filed: October 3, 2003 :
Attorney Docket No. 116756.01 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 19, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 17, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

[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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HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004

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JUN 19 2007

OFFICE OF PETITIONS

In re Patent of	:	
Randall S. Hickle	:	
Application No. 10/677494	:	DECISION
Filing or 371(c) Date: 10/03/2003	:	ON PETITION
Attorney Docket Number: 82021-0044	:	

This is a decision on the "Petition Under 37 CFR 1.153(e) to Accept Complete Specification", filed February 21, 2007, requesting page 9 of the specification be accorded a filing date of October 3, 2003.

The petition is **granted**.

Background

The application was filed on October 3, 2003, and included 11 pages of specification. The application published July 8, 2004. Applicant files the present petition and provides that the published application omitted page 9 of the specification. Applicant avers that the application as-filed included 12 opages of specification. In support of this assertion, Applicant files a copy of his return-receipt postcard.

A review of the return-receipt postcard reveals that the postcard acknowledges receipt of, *inter alia*, 12 pages of specification by this office on October 3, 2003.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

The copy of page 9 of the specification, filed with the instant petition, will be used for examination purposes.

The petition fee has been refunded to deposit account 50-1349 as authorized in the instant petition.

The application will be referred to the Office of Initial Patent Examination for processing of page 9 of the specification with a filing date of October 3, 2003, using the copy of Page 9 of the specification filed with the present petition on February 21, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:
Purcell and Martin	:
Application No. 10/677,555	: DECISION REFUSING STATUS
Filed: October 2, 2003	: UNDER 37 CFR 1.47(b)
Attorney Docket No. CSAV-0015	:
For: **SECURE PROMOTIONS**	:

This is a decision on the petition under 37 CFR 1.47(b), filed June 11, 2004 (certificate of mailing dated June 8, 2004.)

The petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on October 2, 2003, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on January 8, 2004, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. The instant petition was filed on June 11, 2004, responsively.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition lacks item (2) as set forth above.

As to item (2), petitioner failed to file a proper oath or declaration with the instant petition as required by 37 CFR 1.47. Section 409.03 (b) of the MPEP states, in pertinent part, that:

> [t]he 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.54 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person including an attorney or agent authorized to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent my simply state that he or she is authorized to sign on behalf of the corporation.

A review of the application file did not reveal an oath or declaration for the subject application executed by the 37 CFR 1.47(b) applicant. With any renewed petition filed, petitioner must file a declaration that conforms to the MPEP section cited above.

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 should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of	:
Purcell and Martin	:
Application No. 10/677,555	: DECISION REFUSING STATUS
Filed: October 2, 2003	: UNDER 37 CFR 1.47(b)
Attorney Docket No. CSAV-0015	:
For: **SECURE PROMOTIONS**	:

This is a decision on the renewed petition under 37 CFR 1.47(b), filed October 27, 2004.

The petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on October 2, 2003, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on January 8, 2004, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration, payment of the filing and additional claim fees. A petition under 37 CFR 1.47(b) was filed on June 11, 2004, and was dismissed by a decision mailed July 19, 2004. The instant renewed petition was then filed on October 27, 2004, along with a request for an extension of time within the second month.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition lacks item (2) as set forth above.

As to item (2), the declaration filed with the instant petition cannot be accepted until the assignee demonstrates that it has the power to prosecute the application. Section 409.03(b) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that, "[w]here the oath or declaration is being signed on behalf of an assignee, see MPEP 324." Section 324 of the *Manual of Patent Examining Procedure* cites 37 CFR 3.71(c) which states that, "[a]n assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee." Petitioner should note that 37 CFR 3.73 requires that before an assignee can take action in a patent matter, the assignee must establish ownership of the patent property in accordance with 37 CFR 3.73(b)(1)(i) or (ii). No statement or certificate meeting the requirements of 37 CFR 3.73 was found in the application. Regretfully, this was overlooked by the undersigned when the decision of July 19, 2004, was rendered. Petitioner must properly establish ownership of the patent property before the assignee will be granted authority under 37 CFR 1.47(b) to prosecute the application. Enclosed is a "Statement Under 37 CFR 3.73(b)" that petitioner may use to satisfy this requirement.

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 should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/96—"Statement Under 37 CFR 3.73(b)"

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

COPY MAILED

JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Purcell and Martin	:	
Application No.: 10/677,555	:	
Filed: October 2, 2003	:	DECISION ACCORDING
Attorney Docket No: CSAV-0015	:	STATUS UNDER
For: SECURE PROMOTIONS	:	RULE 47(b)

This is in response to the renewed petition under 37 CFR 1.47(b), filed October 27, 2004,

The decision dismissing the renewed petition mailed January 10, 2005, is **vacated**.

The renewed petition is **granted**.

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.

The above-identified application was filed on October 2, 2003, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed on January 8, 2004, requiring an executed oath or declaration, filing fee, a surcharge for the late filing of the oath or declaration, and payment of the filing ad additional claim fees. The Notice set forth a two month extendable period for reply. A petition under 37 CFR 1.47(b) was filed on June 11, 2004, and was dismissed by a decision mailed July 19, 2004. The instant renewed petition was then filed on October 27, 2004.

Petitioner has established that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to proceed with prosecution of the application without the inventors by the instant petition, evidentiary documents demonstrating due diligence, and the refusal and/or unavailability of the inventors to join the application and the assignment.

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 will be directed to Technology Center 3600, GAU 3622for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/677,574	10/01/2003	2676	856	APLE.P0063	8	20	4

CONFIRMATION NO. 9303

CORRECTED FILING RECEIPT

OC000000012803991

23349
STATTLER JOHANSEN & ADELI
P O BOX 51860
PALO ALTO, CA 94303

Date Mailed: 05/27/2004

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)

Kenneth M. Carson, Mill Valley, CA;
Randy Ubillos, Los Altos, CA;
Eric Graves, Wayne, PA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/06/2004

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Optimizing the execution of media processing routines using a list of routine identifiers

Preliminary Class

345

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.

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NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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032007

JAMES MARC LEAS
37 Butler Drive
S. Burlington, VT 05403

MAR 30 2007

In re Application of:
David L. Churchill et al.
Serial No.: 10/677,578
Filed: October 2, 2003
Attorney Docket No.: 115-007

DECISION ON PETITION
TO RESTART STATUTORY PERIOD FOR
REPLY

This is a decision on the petition under 37 CFR 1.181, filed October 10, 2006, to reset the shortened statutory period for reply to run from September 28, 2006, the date a copy of the non-final Office action of April 10, 2006, was obtained from the USPTO web site.

The petition is **DISMISSED**.

A non-final Office action was mailed on April 10, 2006, setting a three-month shortened statutory period for reply. A reply was filed along with the instant petition on October 10, 2006. A Notice of Abandonment has not been mailed.

Petitioner asserts that the Office action of April 10, 2006 was not received and a copy of the Office action was downloaded from the USPTO web site on September 28, 2006. To support the petition, petitioner states that "[a] search of the file jacket and the docket records indicates that the office communication was not received" and provides a "copy of the file jacket where the nonreceived office communication would have been entered had it been received and docketed." Petitioner states that he is a sole practitioner with no employee and has not maintained and does not maintain a docket record notebook listing all the mail received and the date of its receipt. Petitioner also asserts that he "personally review each item of received mail, records all received mail on the respective file jacket at the time it is received, faxes a copy of all received mail to applicant, Microstrain, Inc., enters the matter into a computerized calendar system, and enters the start and stop times into an Excel file for billing Microstrain, Inc. for the time spent reviewing and faxing the office action. A review of the computerize calendar system shows no entry. And a review of the Excel file shows no entry and that Microstrain was not billed for time for this. Thus the mail from the PTO was not received by applicant's attorney."

A review of the file record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing

that the Office action was not in fact received at the correspondence address of record at the time the Office action was mailed. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the practitioner did not receive the Office action and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

Pursuant to M.P.E.P. § 711.03(c), it is petitioner's burden to demonstrate that the Office action was not in fact received at the correspondence address of record at the time it was mailed. The evidence of record is not sufficient to establish non-receipt of the Office action. Since petitioner does not maintain a docket record listing all mail received and its receipt date, other evidence is necessary to establish that petitioner did in fact not receive the Office action. The petition lacks corroboration to establish that a copy of the Office action was not received by Microstrain, Inc. A statement from a person from Microstrain is necessary to establish that a copy of the Office action was not received at that office. The statement should explain in sufficient details how papers relating to patent applications are recorded when received from petitioner and attest that a review and search of appropriate records at Microstrain, Inc. indicates that a copy of the Office action was not received from petitioner.

Since petitioner has not made the requisite showing required under M.P.E.P. § 711.03(c), the request to restart the shortened statutory period for reply is dismissed. In view of this dismissal of the petition, the amendment filed October 10, 2006 cannot be accepted.

Absent further evidence to establish that the Office action was in fact not received, the application became abandoned by operation of law at the expiration of the three-month shortened statutory period set in the Office action of April 10, 2006.

Any request for reconsideration of this decision must be submitted within two months of the date of this decision to be considered timely. Extensions of this time are available under 37 CFR 1.136(a).

Alternatively, petitioner may wish to consider filing a petition under 37 C.F.R. § 1.137(a) or (b) to revive the application.

Inquiries regarding this decision should be directed to Hien H. Phan, Quality Assurance Specialist, at (571) 272-1606.

For

Richard K. Seidel, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,578	10/02/2003	David L. Churchill	115-007	9298

26542 7590 05/17/2010
JAMES MARC LEAS
Law Office Of James Marc Leas
37 BUTLER DRIVE
S. BURLINGTON, VT 05403

EXAMINER
WHITTINGTON, KENNETH

ART UNIT	PAPER NUMBER
2858	

MAIL DATE	DELIVERY MODE
05/17/2010	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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JAMES MARC LEAS
37 Butler Drive
S. Burlington, VT 05403

In re Application of:
David L. Churchill et al.
Serial No.: 10/677,578
Filed: October 2, 2003
Attorney Docket No.: 115-007

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Request for Reconsideration filed April 16, 2007, requesting reconsideration of the decision dismissing the petition under 37 CFR 1.181, filed October 10, 2006, to reset the shortened statutory period for reply to run from September 28, 2006, the date a copy of the non-final Office action of April 10, 2006, was obtained from the USPTO web site. The Request for Reconsideration is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment and accepting the reply filed October 10, 2006 as being timely filed.

The petition is GRANTED.

A non-final Office action was mailed on April 10, 2006, setting a three-month shortened statutory period for reply. A reply was filed along with a petition on October 10, 2006 to restart the shortened statutory period for reply. The petition was dismissed in a decision mailed March 30, 2006. A Notice of Abandonment was mailed on April 13, 2007.

Petitioner asserts that the Office action of April 10, 2006 was not received and a copy of the Office action was downloaded from the USPTO web site on September 28, 2006. To support the petition, petitioner states that "[a] search of the file jacket and the docket records indicates that the office communication was not received" and provides a "copy of the file jacket where the nonreceived office communication would have been entered had it been received and docketed." Petitioner states that he is a sole practitioner with no employee and has not maintained and does not maintain a docket record notebook listing all the mail received and the date of its receipt. Petitioner also asserts that he "personally review each item of received mail, records all received mail on the respective file jacket at the time it is received, faxes a copy of all received mail to applicant, Microstrain, Inc., enters the matter into a computerized calendar system, and enters the start and stop times into an Excel file for billing Microstrain, Inc. for the time spent reviewing and faxing the office action. A review of the computerize calendar system shows no entry. And a review of the Excel file shows no entry and that Microstrain was not billed for time for this. Thus

the mail from the PTO was not received by applicant's attorney." To further support and to corroborate the assertion of non-receipt of the Office action of April 10, 2006, an affidavit by Steven W. Arms, president of Microstrain, Inc., was submitted to describe the communication and recording procedures between the company and counsel James Marc Leas and to attest that a "review and search of the docket folder showed no fax office action" and "[t]he only copy of the office action dated April 10, in the folder is the one that was downloaded from the PTYO web site by Mr. Leas on September 28, 2006.

The evidence of record is accepted as sufficient to establish non-receipt of the Office action of April 10, 2006, and for a grantable petition.

The Notice of Abandonment mailed April 13, 2007 is hereby vacated and the holding of abandonment withdrawn.

The reply filed October 10, 2006 including an amendment to the claims is accepted as being timely filed.

The reply filed October 10, 2006 will be entered and an Office action will be issued in due course.

Inquiries regarding this decision should be directed to Hien H. Phan, Quality Assurance Specialist, at (571) 272-1606.

Richard K. Seidel, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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ROBERT L. SHAVER
DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
BOISE, ID 83701-0877

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OFFICE OF PETITIONS

In re Application of	:	
Dominic R. Delaquil	:	
Application No. 10/677,597	:	ON PETITION
Filed: October 1, 2003	:	
Attorney Docket No. DELD101	:	

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 application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 30, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 31, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525 extension of time fee submitted with the petition on April 17, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

It is noted that the Request for Continued Examination (RCE) with fee of $405 was submitted on March 3, 2008 and resubmitted April 17, 2008. Since the RCE fee resubmitted April 17, 2008 is deemed unnecessary, this fee will be refunded to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1621 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

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Paper No. 092204

CLIFFORD B. PERRY
732 N. COAST HWY. 101
SUITE B
ENCINITAS, CA 92024-2072

SEP 28 2004

In re Application of:	:	
M. AMIN SHOKROLLAHI	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/677,624	:	
Filed: October 01, 2003	:	
Attorney Docket No.: **DF-16 US**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 18, 2003.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Townsend and Townsend and Crew, LLP was filed on December 08, 2003. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications form the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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ROBERT E. KREBS
THELEN REID AND PRIEST, LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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SEP 21 2006
OFFICE OF PETITIONS

In re Application of Jeffrey C. Cerier Application No. 10/677,633 Filed: October 2, 2003 Attorney Docket No. 036295-004	: : : : :	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) or 37 CFR § 10.40, filed on July 5, 2005.

The request is **APPROVED**.

The request was signed by Marc Hanish on behalf of all the attorneys/agents of record.

Marc Hanish and all the attorneys/agents of record have been withdrawn. Therefore, applicant is reminded that there are no attorneys/agents of record at this time.

While the assignee attempted to intervene in the above-identified application, the Revocation of Power of Attorney filed December 8, 2005 does not comply with 37 CFR 3.73(b). In this regard, compliance with 37 CFR 3.73(b) has not been satisfied, in that, the reel and frame number or recordation of the documentary evidence of the chain of title from the original owner to the assignee has not been provided. Therefore, in order to make the power of attorney filed December 8, 2005 acceptable, compliance with 37 CFR 3.73(b) must be satisfied. A form for complying with the provisions of 37 CFR 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

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 inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Andrea Smith at 571-272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Jeffrey C. Cerier
11 Orchard Street
Franklin, MA 02038

Morgan, Lewis & Bockius, LLP
One Market
Spear Street Tower
San Francisco, CA 94105

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/677,633	10/02/2003	Jeffrey C. Cerier	036295-004

CONFIRMATION NO. 4181

OC000000020534788

ROBERT E. KREBS
THELEN REID AND PRIEST LLP
PO BOX 640640
SAN JOSE, CA 95164-0640

Date Mailed: 09/21/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/05/2005.

- 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.

ANDREA M SMITH
OP (571) 272-3226

FORMER ATTORNEY/AGENT COPY

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,635	10/02/2003	Kevin J. Rapp	08215-504001 / P88-026569	4183

28863 7590 02/28/2008
SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

EXAMINER
OGDEN JR, NECHOLUS

ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
02/28/2008	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):

docketing@ssiplaw.com

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Mailed: 2-28-08

In re application of Rapp et al. Serial No. 10/677,635 Filed: October 2, 2003 For: ADDITIVE FOR DIELECTRIC FLUID	: : : :	DECISION ON PETITION

This is a decision on the PETITION FROM REQUIREMENT FOR RESTRICTION UNDER 37 C.F.R. § 1.144 to withdraw the Restriction Requirement issued December 14, 2006.

The examiner first issued a Restriction Requirement on November 23, 2005 when claims 1-20 were pending in the application. Applicants responded on December 22, 2005 with an election of claims 17-19 for prosecution; the election was made WITHOUT TRAVERSE.

After a first action on the merits issued by the examiner on March 7, 2006, applicants amended their claims by cancelling claims 1-20, and presenting new claims 21-35 (see the papers filed June 7, 2006). The examiner responded by holding that newly presented claims 21-35 were not part of the originally elected invention (see the action mailed December 14, 2006). This action is the subject of the instant petition. Applicants cancelled claims 21-35 and presented new claims 36-50 on February 14, 2007.

On February 21, 2007, the instant petition under 37 C.F.R. § 1.144 was filed to formally request the withdrawal of the restriction requirement.

Subsequent to the petition being filed, applicants filed a Request for Continued Examination (RCE) on April 16, 2007. After the filing of the RCE, the examiner mailed out a new Restriction Requirement on July, 12, 2007. On August 8, 2007, applicants elected claims 45-50 for prosecution. The election was made WITHOUT traverse.

DECISION
In view of the RCE of April 16, 2007 and Restriction Requirement of July 12, 2007, the instant petition to withdraw the Restriction Requirement of December 14, 2006 is moot.

Accordingly, the instant petition is **DISMISSED.**

/Jacqueline M. Stone/

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

SHUMAKER & SIEFFERT, P.A.
1625 RADIO DRIVE, SUITE 300
WOODBURY, MINNESOTA 55215

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KELLY K. KORDZIK
WINSTEAD SECHREST AND MINICK P.C.
P.O. BOX 50784
DALLAS TX 75201

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JUL 0 3 2006
OFFICE OF PETITIONS

In re Application of	:	
McMackin et al.	:	
Application No. 10/677,639	:	ON PETITION
Filed: October 2, 2003	:	
Attorney Docket No. PA74-16-03	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 4, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of corrected formal drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
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MONROE, CT 06468

Mail Date: 04/22/2010

Applicant	: Kaisa Nyberg	: DECISION ON REQUEST FOR
Patent Number	: 7607012	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/677,642	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/01/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1113** 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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DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE WA 98101-1688

In re Application of Gregory Heacock, Darrin Huston, James Chen and Steven Daly Application No.10/677,645 Filed: October 2, 2003 Attorney Docket No. 59785-6 Title of Invention: SYSTEM AND METHOD FOR EXCITATION OF PHOTOREACTIVE COMPOUNDS IN EYE TISSUE	DECISION COPY MAILED SEP 0 7 2004 OFFICE OF PETITIONS

This is in response to the petition under 37 CFR 1.47(a) filed July 30, 2004.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The declaration of Arcelie Grapes attest a copy of the application was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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SHELL OIL COMPANY
P O BOX 2463
HOUSTON TX 77252-2463

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OFFICE OF PETITIONS

In re Application of
Leonid Isaakovich Rubinstein et al.
Application No. 10/677,647
Filed: September 30, 2003
Attorney Docket No. TH1908(US)

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)
:
:

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed August 12, 2005, 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 **DISMISSED AS MOOT**.

A petition for acceptance of a claim for late priority under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR § 1.78(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed provisional application.

The instant pending provisional application was filed on September 30, 2003, and was pending at the time of the filing of the instant petition. While a reference to the prior-filed provisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter and the declaration filed with the above identified application.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application with the time period set forth in 37 CFR § 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will

be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed provisional application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

It should be noted that while the petition references 09/850,943, the amendment also filed August 12, 2005 references provisional application no. 60/414,743. Since this petition is filed under 37 CFR § 1.78(a)(6), we will construe the intended priority application to be 60/414,743, the provisional application and that the mention of application no. 09/850,943 is a typographical error. Petitioner **must** notify the Office if this is not a correct interpretation.

In view of the above, the $1370.00 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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed the Technology Center.

This matter is being referred to Technology Center Art Unit 1625 for appropriate action on the amendment filed August 12, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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Paper No.

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MAIL CODE: D303A
BRIDGEWATER NJ 08807

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OFFICE OF PETITIONS

In re Application of	:	
Borcherding et al.	:	
Application No. 10/677,683	:	LETTER REGARDING
Filed: October 2, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. USA3960 US CNT	:	
	:	

This is in response to the "Letter of Good Faith and Candor Regarding Patent Term Under § 37 C.F.R. § 1.705," filed June 26, 2008. Pursuant to their duty of candor and good faith to the Office, applicants disclose that the initial determination of patent term adjustment at the time of the mailing of the notice of allowance should be corrected from ninety-seven (97) days to forty-two (42) days.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is forty-two **(42)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On April 24, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 97 days. Applicants disclose that a Request for Continued Examination, Petition for Two-Month Extension of Time and Amendment were filed on October 19, 2007, in response to the final Office action mailed May 25, 2007. As a result,

applicants disclose that a period of reduction of 55 days should have been entered.

Applicants state that any patent granted on this application is not subject to a terminal disclaimer.

A review of the record confirms that in response to the final Office action mailed May 25, 2007, applicants did not file a response in compliance with §1.113(c) until October 19, 2007, three months and 55 days later. As such, a period of reduction of 55 days is being entered pursuant to 37 C.F.R. §1.704(b).

In view thereof, the correct initial determination of the patent term adjustment at the time of the mailing of the notice of allowance is forty-two (42) days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks Applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded and the period is not consumed by the request for continued examination).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Wednesday

PALM INTRANET

Date: 8/20/2008
Time: 10:01:35

PTA Calculations for Application: 10/677683			
Application Filing Date:	10/02/2003	PTO Delay (PTO):	319
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	222
Post-Issue Petitions:	0	Total PTA (days):	42
PTO Delay Adjustment:	-55		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
95	08/20/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		55	
85	04/24/2008	MAIL NOTICE OF ALLOWANCE			
84	04/22/2008	ISSUE REVISION COMPLETED			
83	04/22/2008	DOCUMENT VERIFICATION			
82	04/22/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
81	04/22/2008	CASE DOCKETED TO EXAMINER IN GAU			
80	04/21/2008	NOTICE OF ALLOWABILITY			
75	04/14/2008	PARALEGAL TD ACCEPTED			
74	04/11/2008	DATE FORWARDED TO EXAMINER			
73	04/04/2008	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
72	04/04/2008	NOTICE OF APPEAL FILED		29	65
71	04/04/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
70	03/29/2008	EMAIL NOTIFICATION			
69	03/25/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
68	03/17/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
67	12/07/2007	ELECTRONIC REVIEW			
66	12/06/2007	EMAIL NOTIFICATION			
65	12/06/2007	MAIL FINAL REJECTION (PTOL - 326)			
64	12/03/2007	FINAL REJECTION			
63	11/02/2007	DATE FORWARDED TO EXAMINER			
62	10/19/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
61	11/02/2007	DATE FORWARDED TO EXAMINER			

60	10/19/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
59	11/02/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
58	10/19/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
57	10/19/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
56	05/30/2007	ELECTRONIC REVIEW			
55	05/26/2007	EMAIL NOTIFICATION			
54	05/25/2007	MAIL FINAL REJECTION (PTOL - 326)			
53	05/22/2007	FINAL REJECTION			
52	04/23/2007	DATE FORWARDED TO EXAMINER			
51	04/20/2007	RESPONSE AFTER NON-FINAL ACTION		58	49
50	04/20/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
49	11/21/2006	MAIL NON-FINAL REJECTION			
48	11/08/2006	NON-FINAL REJECTION			
47	09/29/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	10/06/2006	DATE FORWARDED TO EXAMINER			
45	09/29/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
44	10/06/2006	DATE FORWARDED TO EXAMINER			
43	09/29/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		91	34
42	10/06/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
41	09/29/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
40.7	09/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	09/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	08/10/2006	MAIL ADVISORY ACTION (PTOL - 303)			
38	08/07/2006	ADVISORY ACTION (PTOL-303)			
37	08/01/2006	DATE FORWARDED TO EXAMINER			
36	07/28/2006	AMENDMENT AFTER FINAL REJECTION			
35	07/28/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	03/30/2006	MAIL FINAL REJECTION (PTOL - 326)			

33	03/27/2006	FINAL REJECTION			
32	03/02/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	03/02/2006	REFERENCE CAPTURE ON IDS			
30.7	03/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		14	28
30	03/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	02/23/2006	DATE FORWARDED TO EXAMINER			
28	02/16/2006	RESPONSE AFTER NON-FINAL ACTION		30	26
27	02/16/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	10/17/2005	MAIL NON-FINAL REJECTION	319		-1
25	10/13/2005	NON-FINAL REJECTION			
24	09/15/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
23	09/15/2004	CASE DOCKETED TO EXAMINER IN GAU			
22	10/02/2003	PRELIMINARY AMENDMENT			
21	08/11/2004	APPLICATION RETURN FROM OIPE			
20	08/11/2004	APPLICATION RETURN TO OIPE			
19	08/11/2004	APPLICATION RETURN FROM OIPE			
18	08/11/2004	APPLICATION RETURN TO OIPE			
17	08/11/2004	APPLICATION RETURN FROM OIPE			
16	08/11/2004	APPLICATION IS NOW COMPLETE			
15	08/11/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
14	08/11/2004	APPLICATION RETURN TO OIPE			
13	08/11/2004	APPLICATION RETURN FROM OIPE			
12	08/11/2004	APPLICATION IS NOW COMPLETE			
11	08/11/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
10	08/11/2004	APPLICATION RETURN TO OIPE			
9	08/11/2004	APPLICATION DISPATCHED FROM OIPE			
8	08/11/2004	APPLICATION IS NOW COMPLETE			
7	12/29/2003	CLEARED BY L&R (LARS)			
6	12/17/2003	CASE CLASSIFIED BY OIPE			
5	12/17/2003	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
4	12/16/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	10/15/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	10/02/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM /			

		GROUP / PCT			
1	10/02/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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MILWAUKEE, WI 53202

Mail Date: 05/13/2010

Applicant	: Victor V. Levenson	: DECISION ON REQUEST FOR
Patent Number	: 7666589	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/677,701	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/02/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **308** 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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

In re Application of
Jung-gug Pae, et al.
Application No. 10/677,731
Filed: October 3, 2003
Attorney Docket No. 1293.1892

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 21, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before March 14, 2007. On March 21, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on March 29, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,400 issue fee and the $300 publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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FOX, P.L.L.C.
1100 NEW YORK AVE.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Sette et al.	:	ON REQUEST FOR
Patent Number: 7,507,803	:	RECONSIDERATION OF
Issue Date: 03/24/2009	:	PATENT TERM ADJUSTMENT
Application No. 10/677754	:	
Filing or 371(c) Date: 10/03/2003	:	
Attorney Docket Number: 2060.0200003/HCC/PAC	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 CFR §1.705(d), filed May 20, 2009. Patentees request that the patent term adjustment be increased from 744 days to 1403 days. Patentees request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

The request for reconsideration patent term adjustment is **DISMISSED**.

On March 24, 2009, the above-identified application matured into U.S. Patent No. 7,507,803 with a patent term adjustment of 744 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment in view of the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Accordingly, patentees assert entitlement to an overall patent term adjustment of 1403 days based on 832 days under 37 CFR 1.702(a)(1) *plus* 730 days under 37 CFR 1.702(b) *less* 159 days of applicant delay.

It is noted that patentees do not acknowledge the patent term adjustment under 37 CFR 1.702(a)(4) of 49 days for the failure of the Office to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the issuance of the patent on March 24, 2009, the application was pending three years and 903 days after its filing date. The Office asserts that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 881 days of Office delay pursuant to 37 CFR 1.702(a) is correct. At issue is whether patentees should accrue 903 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 881 days, for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 881 days of examination delay under 37 CFR 1.702(a) overlaps with the 903 days of delay in issuing the patent. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the*

United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

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.

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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).

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, October 3, 2003, to the date the patent issued on March 24, 2009. Prior to the issuance of the patent, 881 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 881 days of Office examination delay overlap with the 903 days of Office delay in issuing the patent. During that time, the issuance of the patent was delayed by 903 days, not 903 days and 881 days. The Office took 14 months and 832 days to issue a first Office action, and four months and 49 days to issue a patent after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 881 days of Office examination delay and the time allowed within the time frames for processing and examination, the application issued three years and 903 days after its filing date. However, the Office did not delay 903 days and then an additional 881 days. Accordingly, at issuance, the Office properly entered 22 additional days of patent term adjustment for the Office taking in excess of three years to issue the patent to reflect the actual number of days, 903, that issuance of the patent was delayed.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

/ALESIA M. BROWN/

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Mail Date: 04/21/2010

Applicant	: Alessandro Sette	: DECISION ON REQUEST FOR
Patent Number	: 7507803	: RECALCULATION of PATENT
Issue Date	: 03/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/677,754	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1413** 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.