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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
10/687,890	10/17/2003	1772	1188	5689-280	9	36	2

CONFIRMATION NO. 9799

CORRECTED FILING RECEIPT

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

OC000000012152286

Date Mailed: 03/22/2004

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

Applicant(s)

Thomas Baumgartner, Residence Not Provided;
Hippolit Gstrein, Residence Not Provided;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/20/2004

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

Felt for forming fiber cement articles with multiplex base fabric

Preliminary Class

428

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

GRANTED

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

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

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

NOT GRANTED

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

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JUN 05 2007

OFFICE OF PETITIONS

In re Application of
Youn Ho Nam et al.
Application No. 10/687,901
Filed: October 17, 2003
Attorney Docket No. **2080-3-181**

DECISION ON PETITION
UNDER § 1.183

This is a decision on the petition, filed May 23, 2007, under 37 CFR 1.47(b), which is being treated under 37 CFR § 1.183 for acceptance of a supplemental declaration without the inclusion of the signature of an inventor as required by §§ 37 CFR 1.67 and 1.63.[1]

The petition is **GRANTED**.

The joint inventors both, signed the original declaration for patent filed in this application, pursuant to § 1.63(d), However, a substitute declaration was required by the Final Office Action mailed February 23, 2007 to correct a defect.

Petitioners assert that joint inventor Youn Ho Nam refuses to execute the declaration. The evidence provided shows that the supplemental declaration was sent to Mr. Nam but that he has not to date returned an executed copy of the substitute declaration. Thus the evidence is found to be adequate to waive the requirement for inventor Nam's signature on the supplemental declaration.

The petition includes the last known addresss of the non-signing inventor and the petition fee in the amount of $400.00 has been charged to deposit account no. 50-2290.

The supplemental declaration has been reviewed and found in compliance with §§ 1.67 and 1.63. In view of the foregoing, it is concluded that waiver of the requirement that

[1]Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration or to provide all information is a waiver of 37 CFR 1.67 and 1.63. See MPEP 603.

the supplemental declaration be signed by joint inventor Nam is appropriate.

This matter is being referred to Technology Center 2191 for further examination as appropriate.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 21, 2008

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/687910 Patent No.: 7327661 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 may fax the Director/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: All Changes are approved

/Tawfik Goma/ Assistant Examiner

JOSEPH FEILD
SUPERVISORY PATENT EXAMINER

2627
Art Unit

SPE

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTOL-306 (REV. 7/03)

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111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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APR 1 6 2004

OFFICE OF PETITIONS

In re Application of :
Henry M. Gallops :
Application No.: 10/687,950 :
Filed: October 17, 2003 :
Attorney Docket No.: 1405-342 :

ON PETITION

This a decision on the petition filed January 14, 2004, titled "Petition Under 37 CFR 1.17(h)." The petition will be treated as request to withdraw the "Notice of Omitted Items in a Nonprovisional Application" (the "Notice") mailed December 8, 2003 in the above-cited application.

The petition is **dismissed.**

The application was filed on October 17, 2003. On December 8, 2003, the Initial Patent Examination Division mailed the Notice stating, in pertinent part, that the application had been accorded a filing date of October 17, 2003, but that Figures 10 and 11 as described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner argued therein that ten sheets of drawings were filed and that Figures 10 and 11 where included therein. In support, the petition is accompanied by statements authored by persons having first-hand knowledge as to the application's filing, a copy of the application transmittal sheet, and a copy of the postcard that accompanied the application. It is noted that the postcard that is provided does not show a Patent and Trademark Office (Office) date-stamp. The petition was also accompanied by two sheets of drawings that contained Figures 10 and 11.

The arguments have been considered, but are not persuasive. A review of the application file reveals that eight sheets of drawings were filed on October 17, 2003, despite petitioner's assertion that ten sheets of drawings were filed on that date. The Patent and Trademark Office (the "Office) file is the official record of the papers originally filed in this application, and it is presumed that the papers that the Office has on file are the only papers filed, absent an Office date-stamped postcard receipt evidencing the Office's receipt of additional items. Accordingly, the statements provided, copy of the transmittal sheet, and the postcard that is not date-stamped by the Office are not sufficient to overcome the aforementioned presumption.

The petition is dismissed.

The application is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of October 17, 2003, using the 8 sheets of drawings filed on October 17, 2003. Thereafter, the application file will be forwarded to the appropriate technology center where the instant petition will be considered as a preliminary amendment.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

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MAY 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Henry M. Gallops :
Application No.10/687,950 : DECISION GRANTING PETITION
Filed: October 17, 2003 :
Attorney Docket No. 1405-342 :

This is a decision on the renewed petition filed April 26, 2004, requesting that the above-identified application retain the presently accorded a filing date of October 17, 2003, with Figures 10 and 11 as described in the specification as part of the original disclosure.

On October 17, 2003, the above-identified application was filed. On December 8, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Items in Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of October 17, 2003, however, Figures 10 and 11 appeared to have been omitted. Relative to the omitted items, the Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on January 14, 2004, applicants filed a petition that was dismissed by a decision mailed April 16, 2004. The instant renewed petition was filed on April 26, 2004, along with a copy of the Office date-stamped postcard acknowledging receipt of 10 sheets of drawings on October 17, 2003.

Upon review of the record, Figures 10 and 11 as described in the specification have not been located among the application papers. However, the evidence is convincing that the application papers deposited October 17, 2003, included Figures 10 and 11, which were subsequently misplaced by the Office. Therefore, the application, including Figures 10 and 11 as described in the specification, was complete on filing and entitled to the presently accorded filing date of October 17, 2003.

Accordingly, the petition is granted; the Notice is vacated, accordingly. 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 17, 2003, using the 10 sheets of drawings filed October 17, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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AUG 23 2004

OFFICE OF PETITIONS

In re Application of :
Gallops, et al. :
Application No. 10/687,950 : DECISION ON PETITION
Filed: October 17, 2003 :
Attorney Docket No. 1405-342 :

This is a decision on the petition filed December 15, 2003, requesting that Figures 10 and 11 of the drawings be considered as part of the disclosure of the originally filed application, or alternatively, that the figures be incorporated by reference.

The petition is **DISMISSED**.

The application was filed on October 17, 2003. However, on December 8, 2003, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application", stating that the application had been accorded a filing date of October 17, 2003, and advising applicants that the drawing of Figures 10 and 11 described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner submits that Figures 10 and 11 were filed with the application on October 17, 2003, as evidenced by an unstamped postcard receipt, itemizing 10 sheets of drawings. In addition, petitioner has included an "Affidavit of Charles J. Meyer" and an "Affidavit of Danielle Sneed", attesting that Figures 10 and 11 were included in the envelope and filed together with the rest of the application papers on October 17, 2003. Alternatively, petitioner requests that Figures 10 and 10 be incorporated into the application based upon the incorporation by reference statement contained in Box 18 of the application transmittal letter.

Regarding petitioner's postcard receipt, it is true that a postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of

receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See MPEP 503. However, petitioners have not submitted a proper return postcard showing that the application, including Figures 10 and 11, was filed on October 17, 2003, as the postcard receipt submitted on petition lacks a USPTO date stamp.

With regards to petitioner's affidavits, the affidavits relied on contain the declarants' recall of routine events which occurred almost two months earlier and are not more persuasive than the record of what was filed as shown by the official file.

Alternatively, petitioners seek to incorporate Figures 10 and 11 into the application. MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), **without the need for a petition** (emphasis added).

Obviously, in view of the incorporation by reference of the prior application, the drawings of Figures 10 and 11 are not new matter if they were a part of the disclosure of the prior application.

Applicants should resubmit Figures 10 and 11 as a preliminary amendment for consideration by the examiner prior to the first Office action on the merits.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 17, 2003, including an indication in Office records that 8 sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 703-305-0272.

for Cliff Congo
Petitions Attorney
Office of Petitions

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[1] "Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects." 37 CFR 1.4(c)

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OFFICE OF PETITIONS

In re Application of :
Gallops, et al. :
Application No. 10/687,950 : LETTER VACATING DECISION
Filed: October 17, 2003 :
Attorney Docket No. 1405-342 :

This is a letter vacating the decision on petition mailed August 23, 2004.

The application was filed on October 17, 2003. However, on December 8, 2003, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application", stating that the application had been accorded a filing date of October 17, 2003, and advising applicants that the drawing of Figures 10 and 11 described in the specification appeared to have been omitted.

In response, applicants filed a petition on December 15, 2003. Because applicants did not include a proper postcard receipt, the petition was dismissed on April 16, 2004. Applicants filed a renewed petition on April 24, 2004, and included a proper postcard receipt itemizing Figures 10 and 11. Accordingly, the renewed petition was granted in a decision mailed on May 4, 2004.

On August 23, 2004, applicants' December 15, 2003 petition was again dismissed.

The August 23, 2004 decision is **VACATED**.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

for

Charles Pearson
Director
Office of Petitions

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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SEP 2 4 2008

In re Application of	:	
Derek Collison	:	
Application No. 10/687,951	:	DECISION ON PETITION
Filed: October 17, 2003	:	TO WITHDRAW
Attorney Docket No. 2982.P015	:	FROM RECORD
	:	

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

The request is **MOOT**.

A review of the file record indicates that the power of attorney to BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP has been revoked by the assignee of the patent application on December 21, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402-0938

In re Application of :

Robert Joyce et al. :
Application No. 10/687,956 : DECISION ON PETITION
Filed: May 19, 2005 : TO WITHDRAW
Attorney Docket No. 2950P85 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 11, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **discontinuation of attorney/client relationship**, 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.

David Bucci
Petitions Examiner
Office of Petitions

cc: Welsh & Katz, Ltd.
120 South Riverside Plaza
Chicago, IL 60606

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PO BOX 16370
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OFFICE OF PETITIONS

In re Application of :
Donald E. Weder :
Application No. 10/687,979 : ON PETITION
Filed: 17 October, 2003 :
Attorney Docket No. 8404.011 :

This is a decision on the petition filed on 8 February, 2005, under 37 CFR 1.137(a)[1] to revive the above-identified application which is first treated as a petition to withdraw the holding of abandonment.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

"Renewed Petition to withdraw the holding of abandonment," or as discussed below "Renewed Petition under 37 CFR 1.137(b)."

The application became abandoned on 16 September, 2004, for failure to timely file a response to the non-final Office action mailed on 15 June, 2004, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 25 January, 2005.

Petitioner asserts that the Office action mailed on 15 June, 2004, was never received.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner asserts that the non-final Office action mailed on 15 June, 2004, was never received. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[2] The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g. if the practitioner has a history of not receiving Office actions).

The showing of record is insufficient to warrant withdrawal of the holding of abandonment. While petitioner states that a copy of the docket sheet from counsel's docketing software is included with the petition, no copy of a docket sheet is located among the papers received with the petition filed on 8 February, 2005. Any renewed petition should include a copy of the docket record described in the petition.

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[2]M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

As the required showing has not been presented, the petition must be dismissed.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[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.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] 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

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[3] 35 U.S.C. § 133.

[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

As the showing of record, petitioner's assertion that the Office action mailed on 15 June, 2004, was never received, in itself, is insufficient to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

It is additionally noted that petitioner has included a request for Express Abandonment under 37 CFR 1.138 in favor of a continuing application. A review of Office PALM records fails to disclose that a continuing application has been filed. Petitioner should include, with any renewed petition, a Filing Receipt or other evidence that a continuing application has been filed. The Express Abandonment request will be retained the application file, but will not be entered unless and until the filing of a continuing application is confirmed.

ALTERNATIVE VENUE

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

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

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

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

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[6] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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

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

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

Additionally, as petitioner states that the Office action mailed on 15 June, 2004, was never received, a copy of the Office action and the accompanying PTO Forms 1449 and 892, are included for petitioner's reference.

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

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Office Action mailed 15 June, 2004
PTO-1449 Information Disclosure Citation
PTO-892 Notice of References Cited
Form PTO/SB/64
Privacy Act Statement

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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DIW 04-05

DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

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APR 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Donald E. Weder	:	
Application No. 10/687,979	:	ON PETITION
Filed: 17 October, 2003	:	
Attorney Docket No. 8404.011	:	

This is a decision on the renewed petition filed on 16 March, 2005, under 37 CFR 1.137(a)[1] to revive the above-identified application.

The petition is **granted**.

The application became abandoned on 16 September, 2004, for failure to timely file a response to the non-final Office action mailed on 15 June, 2004, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 25 January, 2005. The petition filed on 8 February, 2005, was dismissed on 8 March, 2005.

---

[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

Receipt of the Express Abandonment in favor of a continuing application filed on 8 February, 2005, is acknowledged, whereby petitioner requests the present application be revived for copendency with Application No. 11/035,288, filed on 8 February, 2005, which is a continuation of which the instant application.

Since this application is revived for purposes of continuity only with Application No. 11/035,288, and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the above-referenced continuing application.

The duplicate petition fee submitted with the present renewed petition is unnecessary. Petitioner may request a refund thereof by writing to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioner's request.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHARMACIA CORPORATION
Global Patent Department
575 Maryville Centre Drive
Mail Zone 1006
St. Louis, MO 63141

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AUG 17 2007

OFFICE OF PETITIONS

In re Application of :
Nancy Jean Britten, et. al. :
Application No. 10/687,986 : ON PETITION
Filed: October 17, 2003 :
Attorney Docket No. 00661.US1 :

This is a decision on the petition under 37 CFR 1.137(b), on August 17, 2006, to revive the above-identified application. The delay in responding is regretted.

The application became abandoned for failure to timely respond to the Restriction Requirement mailed February 7, 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.

Also, the Office mistakenly charged petitioner's deposit account $130 for the petition to revive fee. However, a petition to revive under 37 CFR 1.137(b) requires a petition fee of $1,500 (large entity). Therefore, the difference of $1,370 (1500-130) will be charged to petitioner's deposit account, as authorized in the instant petition filed on August 17, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) an election; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

This application file is being referred to Technology Center Art Unit 1654, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: John H. Engelmann
Pfizer, Inc., Patent Department
7000 Portage Road
KZO-300-104
Kalamazoo, MI 49001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of :
Bo Shen, et al. :
Application No. 10/687,997 : ON PETITION
Filed: October 17, 2003 :
Attorney Docket No. 200208236-1 :

This is in response to the petition under 37 CFR 1.47(a), filed December 21, 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 referred to the Office of Initial Patent Examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

COPY MAILED

DEC 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Peter Nollert et al.	:	
Application No. 10/688,010	:	
Filing Date: October 17, 2003	:	DECISION ON PETITION
Attorney Docket Number: 018062-003140US	:	PURSUANT TO 37 C.F.R. § 3.81(B)
Title: METHOD AND APPARATUS FOR PREPARING LIPIDIC MESOPHASE MATERIAL	:	

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b),[1] filed May 19, 2008, to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

The petition is **GRANTED**.

With this petition, Petitioner requests that a Certificate of Correction be issued to correct the assignee information that appears on the face of the patent. Petitioner submits a "Certificate of Correction" for this purpose, which indicates that the city of the Assignee should be changed from "San Francisco" to "Oakland."

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.

Petitioner has set forth that the assignment was submitted for recordation (in the parent application) as set forth in 37 C.F.R. § 3.11 before issuance of the patent.

Payment of the required $130 processing fee and the required $100 certificate of correction fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RATNERPRESTIA
P O BOX 980
VALLEY FORGE PA 19482-0980

COPY MAILED

APR 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Myr et al.	:	
Application No. 10/688,018	:	ON PETITION
Filed: October 17, 2003	:	
Attorney Docket No. MAK-106US	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 10, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement signed by the applicant. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3623 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 14 2004

STEPHEN J. LEWELLYN
933 OLEANDER WAY SOUTH
SUITE 3
SOUTH PASADENA FL 33707

In re Application	:	
Henry Rennich	:	
Serial No.: 10/688,053	:	DECISION ON PETITION
Filed: October 20, 2003	:	
For: External Incotinence Clamp	:	

This is in response to applicants' petition filed December 5, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 South Avenue West
Westfield, NJ 07090

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SEP 13 2006

OFFICE OF PETITIONS

In re Application of :
TENEMBAUM :
Application No. 10/688,054 : DECISION ON PETITION
Filed: October 17, 2003 : TO WITHDRAW
Attorney Docket No. UVI 3.9-005 CONT : 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 22, 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 Jeffrey S. Dickey on behalf of all attorneys of record who are associated with customer No. 00530.

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

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

There is no outstanding Office action that requires a reply from the applicant.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: United Virtualities, Inc.
116 West 23rd Street
Suite 500
New York, NY 10011

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIVERSA CORPORATION
4955 DIRECTORS PLACE
SAN DIEGO CA 92121

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SEP 23 2005

OFFICE OF PETITIONS

In re Application of :
Eileen TOZER et al. :
Application No. 10/688,057 : ON PETITION
Filed: October 17, 2003 :
Attorney Docket No. 1280-38 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed January 24, 2005, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 25, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee of $750; and the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of January 24, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 1641 for appropriate action on the concurrently filed election.

Brian Hearn
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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/688,060	10/16/2003	1714	450	07875/0200146-US0	4	10	2

CONFIRMATION NO. 8155

CORRECTED FILING RECEIPT

07278
DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

OC000000013146504

Date Mailed: 07/02/2004

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

Applicant(s)

Reiner Sauerwein, Steinberg, GERMANY;
Dieter Prescher, Schwandorf, GERMANY;
Josef Brandl, Teublitz, GERMANY;
Hans Gokorsch, Schwandorf, GERMANY;

Assignment For Published Patent Application

Nabaltec Nabwerk Aluminiumhydroxid Technologie GmbH, Schwandorf, GERMANY;

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 102 48 174.1 10/16/2002

If Required, Foreign Filing License Granted: 02/04/2004

Projected Publication Date: 07/29/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Flame retardant polymer composition

Preliminary Class

524

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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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

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DEC 07 2006

OFFICE OF PETITIONS

In re Application of :
LEMMONS :
Application No. 10/688,067 : DECISION ON PETITION
Filed: October 16, 2003 : TO WITHDRAW
Attorney Docket No. 577172002100 : 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 14, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "Application is being transferred to another attorney" does not meet any conditions set forth in 37 CFR 1040.

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

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **Marc Kaufman, Esq.**
NIXON PEABODY LLP
401 9th Street, N.W.
Suite 900
Washington, D.C. 20004

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C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

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JUN 25 2007

OFFICE OF PETITIONS

In re Application of

Thomas Lemmons
Application No. 10/688,067
Filed: October 16, 2003
Attorney Docket No. 577172002100

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 17, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Adam Keser 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.

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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARC KAUFMAN, ESQ.
NIXON PEABODY, LLP
401 9TH STREET NW
SUITE 900
WASHINGTON, DC 20004

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
10/688,074	10/17/2003	2673	900	01-CA-281/GC	4	4	1

CONFIRMATION NO. 8163

CORRECTED FILING RECEIPT

OC000000012411434

25235
HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER, CO 80202

Date Mailed: 04/23/2004

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

Applicant(s)

Leonardo Sala, Point St. Martin, ITALY;
Daniele Domanin, Aosta, ITALY;
Roberto Gariboldi, Lacchiarella, ITALY;
Santo Ilardo, Leonforte, ITALY;

Domestic Priority data as claimed by applicant

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 02425638.0 10/22/2002

If Required, Foreign Filing License Granted: 01/21/2004

Projected Publication Date: 07/29/2004

Non-Publication Request: No

Early Publication Request: No

Title

Method for scanning sequence selection for displays

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.

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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MCLEAN VA 22102

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of :
HUBER, et al. :
Application No. 10/688,075 : DECISION ON PETITION
Filed: October 17, 2003 : TO WITHDRAW
Attorney Docket No. 577172002300 : 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 16, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "application is being transferred to another attorney", 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- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NIXON PEABODY LLP**
401 9TH STREET NW, SUITE 900
WASHINGTON, DC 20004

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MCLEAN VA 22102

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JUL 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
HUBER, et al.	:	
Application No. 10/688,075	:	DECISION ON PETITION
Filed: October 17, 2003	:	TO WITHDRAW
Attorney Docket No. **577172002300**	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 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 Adam Keser on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **THOMAS HUBER**
8678 PAWNEE ROAD
PARKER, CO 80134

cc: **MARC KAUFMAN, ESQ.**
NIXON PEABODY LLP
401 9TH STREET NW, SUITE 900
WASHINGTON, DC 20004

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OFFICE OF PETITIONS

In re Application of
Kumar, et al.
Application No. 10/688,094
Filed: October 16, 2003
Attorney Docket No. 005306.P105

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 16, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/688,094	10/16/2003	Darshan Kumar	5306P105

CONFIRMATION NO. 9094

OC000000020508010

OC000000020508010

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 09/20/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2006.

- 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 McWise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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ROBERT K. FERGAN
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

FAX RECEIVED

MAY 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Xubin Song et al	:	
Application No. 10/688,095	:	ON PETITION
Filed: October 17, 2003	:	
Attorney Docket No. 10541-1868	:	

This is a decision on the petition under 37 CFR 1.173(b), filed May 11, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 27, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 28, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (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 27, 2004 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3661.

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

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REYNOLDS P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

MAIL

DEC 3 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Marvin A. Leedom, et al.
Application No. 10/688,099
Filed: October 17, 2003
For: HEARING AID

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed October 14, 2004 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

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

The petition includes a statement by Marvin A. Leedom that he over 65 years of age.

Accordingly, the petition is **GRANTED**.

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

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

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

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OFFICE OF PETITIONS

In re Application of

Leedom, et al.

Application No. 10/688,099

Filed: October 17, 2003

Attorney Docket No. 2506.2008-009

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed August 31, 2007.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on April 13, 2007, after it was believed that no response was received to the non-final Office action mailed January 12, 2007. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on August 23, 2007, indicating that a reply to the non-final Office action was not received.

Petitioner states that a response to the non-final Office action was filed on April 27, 2007, with a request for an extension of time within the first month. A review of the application file reveals that a response was filed on April 27, 2007, with a request for an extension of time within the first month. Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the maximum statutory period for reply. The holding of abandonment is withdrawn, accordingly.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 2600, GAU 2615 for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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FEB 19 2008

OFFICE OF PETITIONS

In re Application of :
Leedom, et al. :
Application No. 10/688,099 : DECISION ON PETITION
Filed: October 17, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2506.2008-009 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 27, 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 amendment to the specification filed December 5, 2006.

The petition is **GRANTED.**

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

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin at (571) 272-3222. 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 2615 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.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/688,099	10/17/2003	2615	770	2506.2008-009	12	2

CONFIRMATION NO. 9082

CORRECTED FILING RECEIPT

21005
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

OC00000028363745

Date Mailed: 02/19/2008

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

Applicant(s)

Marvin A. Leedom, Princeton, NJ;
John G. Aceti, Cranbury, NJ;
Walter P. Sjursen, Washington Crossing, PA;
Derek D. Mahoney, Manalapan, NJ;
John M. Margicin, Levittown, PA;
Michael H. Tardugno, Lawrenceville, NJ;
Robert R. Demers, Cranbury, NJ;
John E. Oltman, Mt. Horeb, WI;
Robert C. Maxwell, Princeton, NJ;
Frederick J. Fritz, Skillman, NJ;

Assignment For Published Patent Application

Sarnoff Corporation, Princeton, NJ

Power of Attorney: The patent practitioners associated with Customer Number 21005

Domestic Priority data as claimed by applicant

This application is a CON of 09/524,501 03/13/2000 PAT 7,010,137
which is a CIP of 09/263,593 03/05/1999 PAT 6,473,511
which is a CIP of 08/815,852 03/12/1997 PAT 5,881,159
which claims benefit of 60/013,426 03/14/1996
and said 09/524,501 03/13/2000
claims benefit of 60/157,972 10/06/1999
and claims benefit of 60/157,870 10/06/1999
and claims benefit of 60/145,321 07/23/1999
and claims benefit of 60/161,214 10/22/1999

Foreign Applications

If Required, Foreign Filing License Granted: 01/21/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/688,099**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Hearing aid

Preliminary Class

381

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 9 4085-4040

In re Application of Meagley et al. :
Application No. 10/688,109 : Decision on Petition
Filing Date: October 16, 2003 :
Attorney Docket No. 42P17302 :

This is a decision on the petition under 37 CFR 1.181, filed March 26, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

This application was held abandoned for failure to file a response to the non-final Office action of July 17, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on March 8, 2007.

Petitioner contends a reply to the July 17, 2006 Office action was timely filed on October 17, 2006.

The Office has located the papers filed October 17, 2006. A review of the papers indicates the papers were timely and a proper reply to the non-final Office action. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 1752 will be informed of the instant decision and the amendment filed October 17, 2006, will be entered and 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

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ALBEMARLE CORPORATION
PATENT DEPARTMENT
451 FLORIDA STREET
BATON ROUGE LA 70801

In re Application of :
Howarth, et al. : LETTER REGARDING PTA
Application No. 10/688,125 :
Filed: October 17, 2003 :
Atty. Dkt. No.: : SU-7155-C :

This letter is in response to the "STATEMENT REGARDING PATENT TERM ADJUSTMENT," filed March 3, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed December 17, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 660 days. Applicants indicate that there may be an error in the calculation of the number of days in the Patent Term Adjustment stated in the Determination of Patent Term Adjustment mailed December 17, 2008. Applicants further state that "it is Applicants' understanding that the time between the filing of the Request for Continued Examination and the issuance of the patent should not be counted in the calculation of Patent Term Adjustment, and appears to have been added to the Adjustment in the present application. In addition, Terminal Disclaimers, which may affect the Adjustment, have been filed in this application."

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 611 days.

As uncontested by applicants, as of the time of allowance, the application is entitled to an adjustment of 660 days.

However, a review of the record reveals that the Office neglected to assess a reduction of 49 days in connection with the Information Disclosure Statement (IDS) filed February 15, 2008. In accordance with 37 CFR 1.704(c)(8), the reduction commenced December 29, 2007, the day after the date that the initial reply (Request for Continued Examination) was filed, and ended February 15, 2008, the date that the IDS was filed.

Accordingly, as of the time of allowance, the application is entitled to an adjustment of 611 days (adjustments totalling 660 days less reduction of 49 days.

Applicants further advise that of terminal disclaimers filed in the instant application. The filing of the terminal disclaimer has no effect on the determination of patent term adjustment *set forth* on any patent issuing from this application. As set forth at 35 U.S.C. 154(b)(2)(B):

> No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

Moreover, 37 CFR § 1.703(g) provides that:

> No patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under § 1.702 and this section beyond the expiration date specified in the disclaimer.

However, the provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Further, the Office does not undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 CFR § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Ms. Drabnis appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts. If, Ms. Drabnis desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Ms. Drabnis, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Data Management for issuance of the patent.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

CC: Mary H. Drabnis
McGlinchey Stafford PLLC
4703 Bluebonnet Blvd.
Baton Rouge, LA 70809

Day : Saturday
Date: 7/18/2009

PALM INTRANET

Time: 07:52:37

PTA Calculations for Application: 10/688125			
Application Filing Date:	10/17/2003	PTO Delay (PTO):	660
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	611
PTO Delay Adjustment:	-49		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
73	07/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		49	
67	12/17/2008	MAIL NOTICE OF ALLOWANCE			
66	12/08/2008	ISSUE REVISION COMPLETED			
65	12/02/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
64	12/02/2008	DOCUMENT VERIFICATION			
63	12/02/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
62	12/02/2008	NOTICE OF ALLOWABILITY			
61	11/18/2008	DATE FORWARDED TO EXAMINER			
60	11/13/2008	AMENDMENT AFTER FINAL REJECTION			
59	10/30/2008	MAIL FINAL REJECTION (PTOL - 326)	3		55
58	10/27/2008	FINAL REJECTION			
57	10/23/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
56	08/09/2008	DATE FORWARDED TO EXAMINER			
55	06/27/2008	RESPONSE AFTER NON-FINAL ACTION			
54	04/01/2008	MAIL NON-FINAL REJECTION			
53	03/28/2008	NON-FINAL REJECTION			
52	02/15/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	02/15/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
48	03/19/2008	DATE FORWARDED TO EXAMINER			
47	12/28/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
46	03/19/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			

45	02/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	12/28/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	12/28/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	12/28/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	12/28/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
40	12/22/2007	FINISHED INITIAL DATA CAPTURE			
39	10/12/2007	EXPORT TO INITIAL DATA CAPTURE			
38	10/04/2007	MAIL NOTICE OF ALLOWANCE			
37	10/01/2007	ISSUE REVISION COMPLETED			
36	10/01/2007	DOCUMENT VERIFICATION			
35	10/01/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
34	10/01/2007	CASE DOCKETED TO EXAMINER IN GAU			
33	09/21/2007	NOTICE OF ALLOWABILITY			
32	09/19/2007	PARALEGAL TD ACCEPTED			
31	09/19/2007	DATE FORWARDED TO EXAMINER			
30	09/18/2007	AMENDMENT AFTER FINAL REJECTION			
29	07/05/2007	MAIL FINAL REJECTION (PTOL - 326)			
28	07/03/2007	FINAL REJECTION			
27	05/01/2007	PARALEGAL TD ACCEPTED			
26	04/28/2007	DATE FORWARDED TO EXAMINER			
25	04/26/2007	RESPONSE AFTER NON-FINAL ACTION			
24	01/26/2007	MAIL NON-FINAL REJECTION			
23	01/22/2007	NON-FINAL REJECTION			
22	03/15/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	03/31/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	11/07/2006	DATE FORWARDED TO EXAMINER			
19	10/27/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
18	10/05/2006	MAIL RESTRICTION REQUIREMENT	657		-1
17	09/30/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
16	03/31/2005	REFERENCE CAPTURE ON IDS			
15.7	03/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

15	03/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	04/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	10/25/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	03/15/2004	REFERENCE CAPTURE ON IDS			
11.7	03/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/25/2004	CASE DOCKETED TO EXAMINER IN GAU			
9	04/14/2004	CORRESPONDENCE ADDRESS CHANGE			
8	01/21/2004	APPLICATION RETURN FROM OIPE			
7	01/21/2004	APPLICATION RETURN TO OIPE			
6	01/21/2004	APPLICATION DISPATCHED FROM OIPE			
5	01/21/2004	APPLICATION IS NOW COMPLETE			
4	01/14/2004	CLEARED BY OIPE CSR			
3	01/14/2004	CASE CLASSIFIED BY OIPE			
2	11/25/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/17/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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P.O. BOX 1450
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DAVID W. HIGHET, VP AND CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE, MC 110
FRANKLIN LAKES NJ 07417-1880

COPY MAILED
JUN 0 6 2006
OFFICE OF PETITIONS

In re Application of :
Clifford A. Oostman, Jr., et al. :
Application No. 10/688,131 : DECISION ON PETITION
Filed: October 17, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. P5366.C2 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 9, 2006 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application No. 09/941,357 filed August 28, 2001.

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 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 application, accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2884 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/688,131	10/17/2003	2884	1280	P5366.C2	11	34	6

CONFIRMATION NO. 2022

26253
DAVID W. HIGHET, VP AND CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE, MC 110
FRANKLIN LAKES, NJ 07417-1880

CORRECTED FILING RECEIPT

OC000000018918714

OC000000018918714

Date Mailed: 05/23/2006

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)

Clifford A. Oostman JR., Hansville, WA;
Barry J. Blasenheim, San Jose, CA;

Power of Attorney: The patent practitioners associated with Customer Number **003897**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/941,357 08/28/2001 PAT 6,683,314

Foreign Applications

If Required, Foreign Filing License Granted: 01/21/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/688,131

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Fluorescence detection instrument with reflective transfer legs for color decimation

Preliminary Class

250

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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MITSUBISHI ELECTRIC RESEARCH LABORATORIES, INC
201 BROADWAY
8TH FLOOR
CAMBRIDGE, MA 02139

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JUN 03 2009

OFFICE OF PETITIONS

In re Application of :
Beibei Wang, et al. :
Application No. 10/688,133 : ON PETITION
Filed: October 17, 2003 :
Attorney Docket No. MERL-1501 :

This is a decision in response to the petition, filed October 23, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is dismissed.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay. In this instance, the fee required by law is $1,620. The petition in the above-identified application was not accompanied by payment of the required fee.

No consideration on the merits can be given to the petition until the required fee is received.

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

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

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

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

By internet: EFS-Web[1]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of
Beibei Wang, et al.
Application No. 10/688,133
Filed: October 17, 2003
Attorney Docket No. MERL-1501

ON PETITION

This is a decision in response to the renewed petition, filed June 10, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 11, 2008. A Notice of Abandonment was mailed September 19, 2008. On October 23, 2008, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed June 3, 2009. In response, on June 10, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2621 for appropriate action by the Examiner in the normal course of business on the reply received September 3, 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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DAVID P. HALSTEAD
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

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SEP 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Paul Ashton :
Application No. 10/688,151 : NOTICE
Filed: October 17, 2003 :
Attorney Docket No. CDSI-P01-020

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to the Initial Patent Examination Unit.

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

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JJGJr: 06-04

Paper No: __

MICHAEL C. BARRETT, ESQ.
FULBRIGHT & JAWORSKI L.L.P.
SUITE 2400
600 CONGRESS AVENUE
AUSTIN TX 78701

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JUN 07 2004
OFFICE OF PETITIONS

In re Application of :
Tosaya, et al. :
Application No. 10/688,152 : ON PETITION
Filed: 3 October, 2002 :
Attorney Docket No. D-99026A :

This is a decision on the petition filed on 30 April, 2004, under 37 C.F.R. §1.53, to obtain a filing date of 17 October, 2003, for pages 75 and 76 of the instant application.

The petition is **GRANTED**.

This application was deposited on 17 October, 2003. However, on 1 April, 2004, the Office mailed a "Notice of Omitted Items" in this nonprovisional application, stating that it appeared that pages 75 and 76 of the application were missing from the application on deposit.

In response, Petitioner's office submitted, inter alia, copies of: (a) what it contends are true copies of pages 75 and 76 of the application, (b) a copy of the entire application, incorporated herein by reference in the instant application (at the preliminary amendment deposited on 17 October, 2003), and (c) a copy of the date-stamped ("101703"--17 October, 2003) receipt card reflecting receipt by the Office of, *inter alia*:

* * *
Specification 121 Pages
* * *
Other: Req. for filing Continuation Appln.; Check ($483); Copy of prior Appln. SN 09/421,965 as-filed 10/20/00) w/Abstract, Claims, Spec., Informal Dwgs. & Decls.); Preliminary Amendment . . .
* * *

Analysis

A search and review of the official file reveals that on 17 October, 2003, the Preliminary Amendment was deposited as a part of the application it states: "This is a continuation of co-pending U.S. Patent Application Serial No. 09/421,965, filed October 20, 1999, * * * which are all hereby incorporated herein by reference in their entirety and serves a basis for priority for this disclosure."

Because Petitioner stated on in the application that the entire disclosure of the prior application was incorporated by reference, and Petitioner has included that disclosure, and a statement in the petition attesting thereto, the present petition will be construed as a petition to accept the specification and claims deposited on 30 April, 2004, as a complete copy of the entire disclosure filed with application No. 10/688,152 on 17 October, 2003. **Petitioner must notify the Office if this is not a correct interpretation**.

Because the 30 April, 2004, petition was not due to an error on the part of the Office, the petition fee submitted with it will not be refunded.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to 17 October, 2003, using pages 75 and 76 as deposited on 30 April, 2004, and pages 1 - 74 and 77 - 121 deposited on 17 October, 2003.

The application will then be forwarded to for examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJr: 06-04

Paper No: __

MICHAEL C. BARRETT, ESQ.
FULBRIGHT & JAWORSKI L.L.P.
SUITE 2400
600 CONGRESS AVENUE
AUSTIN TX 78701

COPY MAILED
JUN 16 2004
OFFICE OF PETITIONS

In re Application of	:	
Tosaya, et al.	:	
Application No. 10/688,152	:	ON PETITION
Filed: 17 October, 2003	:	
Attorney Docket No. TUUT:010USC1	:	

This is a decision on the petition filed on 30 April, 2004, under 37 C.F.R. §1.53, to obtain a filing date of 17 October, 2003, for pages 75 and 76 of the instant application.

The petition is **GRANTED**, and decision of 7 June, 2004, is amended to correct the caption as set forth above as to filing date and docket number.

This application was deposited on 17 October, 2003. However, on 1 April, 2004, the Office mailed a "Notice of Omitted Items" in this nonprovisional application, stating that it appeared that pages 75 and 76 of the application were missing from the application on deposit.

In response, Petitioner's office submitted, inter alia, copies of: (a) what it contends are true copies of pages 75 and 76 of the application, (b) a copy of the entire application, incorporated herein by reference in the instant application (at the preliminary amendment deposited on 17 October, 2003), and (c) a copy of the date-stamped ("101703"--17 October, 2003) receipt card reflecting receipt by the Office of, *inter alia*:

> * * *
> Specification 121 Pages
> * * *
> Other: Req. for filing Continuation Appln.; Check ($483); Copy of prior Appln. SN 09/421,965 as-filed 10/20/00) w/Abstract, Claims, Spec., Informal Dwgs. & Decls.); Preliminary Amendment . . .
> * * *

Analysis

A search and review of the official file reveals that on 17 October, 2003, the Preliminary Amendment was deposited as a part of the application it states: "This is a continuation of co-pending U.S. Patent Application Serial No. 09/421,965, filed October 20, 1999, * * * which are all hereby incorporated herein by reference in their entirety and serves a basis for priority for this disclosure."

Because Petitioner stated on in the application that the entire disclosure of the prior application was incorporated by reference, and Petitioner has included that disclosure, and a statement in the petition attesting thereto, the present petition will be construed as a petition to accept the specification and claims deposited on 30 April, 2004, as a complete copy of the entire disclosure filed with application No. 10/688,152 on 17 October, 2003. **Petitioner must notify the Office if this is not a correct interpretation**.

Because the 30 April, 2004, petition was not due to an error on the part of the Office, the petition fee submitted with it will not be refunded.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to 17 October, 2003, using pages 75 and 76 as deposited on 30 April, 2004, and pages 1 - 74 and 77 - 121 deposited on 17 October, 2003.

The application will then be forwarded to for examination in due course.

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

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

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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
10/688,164	10/17/2003	2681	1348	9342-109	4	33	7

CONFIRMATION NO. 9533

Robert M. Meeks
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, NC 27627

CORRECTED FILING RECEIPT

OC000000011933969

Date Mailed: 02/20/2004

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

Applicant(s)

Magnus Jendbro, Lund, SWEDEN;
Bjorn Hansson, Malmo, SWEDEN;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/22/2004

Projected Publication Date: 04/21/2005

Non-Publication Request: No

Early Publication Request: No

Title

Wireless user note server apparatus, methods and computer program products and wireless terminals for use therewith

Preliminary Class

455

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

GRANTED

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

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

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

NOT GRANTED

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

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FEB 9 2005

Paper No. 020805

Duane Morris LLP
100 College Rd., West
Suite 100
Princeton, NJ 08540

In re Application of:
Petrucelli
Serial No.: 10/688182
Filed: October 17, 2003
Attorney Docket No.: **N0648-00300**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 2, 2004.

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

The request meets all the above stated requirements. The request was signed by Paul A. Schwarz, on behalf of himself, and all the attorneys/agents of record.

The request is **APPROVED**.

All future communications from the Office will be directed to Plevy & Howard, at the below address, until otherwise notified by applicant.

Inquiries related to 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

cc: Plevy & Howard
600 North Easton Rd.
Willow Grove, PA 19090

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OFFICE OF PETITIONS

In re Application of

Felix L. Sorkin :

Application No. 10/688,183

: DECISION ON PETITION

Filed: October 20, 2003

:

Attorney Docket No. 1101-170

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 25, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on August 26, 2006. A Notice of Abandonment was mailed on December 7, 2006.

The amendment filed December 14, 2006, is noted.

The application is being forwarded to Technology Center 3600, GAU 3636 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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John S. Egbert
Harrison & Egbert
412 Main Street, 7th Floor
Houston, TX 77002

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Cheng-Fang Hsiao :
Application No. 10/688,185 :
Filed: October 20, 2003 : DECISION
Attorney Docket No.: 1496-942 : ON PETITION
For: DIRECT CURRENT BRUSHLESS :
VIBRATION MOTOR :

In re Application of :
Hung-Chi Tsai :
Application No. 10/687,115 :
Filed: October 17, 2003 :
Attorney Docket No.: 1496-941 :
For: STRUCTURE FOR FASTENING :
ILLUMINATION TUBES OF A CLUSTER :
LAMP :

This is a decision on the Petition For A Question Not Specifically Provided for Under 37 CFR § 1.182, filed February 13, 2006, which is being treated as a petition to correct the files of the above-identified applications.

Applicant asserts that the Office switched application papers between the above-identified application serial number 10/688,185 ("the motor"), and application serial number 10/687,115 ("the lamp). Applicant asserts that through discussions with examiners for the applications, the examiners have agreed to and did in fact switch the assigned titles and docket numbers so that the motor examiner would keep the motor invention and the lamp examiner would keep the lamp invention.

However, Applicant provides that not all necessary documents and identifying information has been switched as agreed upon by the examiners. Petition at pp. 2-3.

Applicant provides that the identity of the motor inventor has not been switched to Cheng-Fang Hsaio, and the corresponding Declaration, certified copy of the priority document, and rescission of non-publication request have not been switched. Petition at p.3.

Applicant has filed with the petition previously amended Application Data Sheets to clarify the information and documentation to be switched. Id.

Applicant also provides that "there is no need for new Declarations concerning the 'name change' because the problem with the application is deeper than simply changing the name. The complete identity of the inventor is changed, and the proper declaration was accidentally filed in an unrelated application." Id.

Applicant requests correction of the switched documents and information between the switched applications, including correction of the identity of the inventors in the respective applications.

A review of the application files

10/688,185 (currently identified as "the motor")

A review of the return-receipt postcard filed by Applicant for the "STRUCTURE FOR FASTENING ILLUMINATION TUBES OF A CLUSTER LAMP" (lamp) reveals that it was filed October 20, 2003; was assigned application no. 10/688,185; contained 8 sheets of drawings; listed as the inventor Hung-Chi Tsai, and the docket number was 1496-942.

A Filing Receipt for Application 10/688,185 was mailed on January 26, 2004, indicating the filing date of October 20, 2003; the inventor as Hung-Chi Tsai; the attorney docket number as 1496-942, the application was assigned to art unit 2834, and contained 8 drawings, 1 claim and 1 independent claim.

A review of the file for the 10/688,185 reveals the following:

The original specification filed on October 20, 2003 was for the "DIRECT CURRENT BRUSHLESS VIBRATION MOTOR" (motor), and the title of the invention and drawings have been amended from lamp to motor, and two (2) sheets of drawings respectively.

The application transmittal remained the "STRUCTURE FOR FASTENING ILLUMINATION TUBES OF A CLUSTER LAMP" (lamp), the inventor as Hung-Chi Tsai; attorney docket number 1496-942, and included a Non-publication request. (The non-publication request has been rescinded).

The oath/declaration contained the same title (Lamp), and also lists the inventor as Hung-Chi Tsai.

The Application Data Sheet ("ADS"), also lists the title of the invention as lamp, the inventor as Hung-Chi Tsai, and the attorney docket number as 1496-942.

Summary: We have a specification for a motor with drawings for the motor, but we have a application transmittal form, oath declaration, and ADS for a lamp with a non-publication request intended for the lamp.

10/687,115 (the lamp")

A review of the return-receipt postcard filed by Applicant for the "DIRECT CURRENT BRUSHLESS VIBRATION MOTOR" (motor) reveals that it was filed October 17, 2003; was assigned application no. 10/687,115; contained 2 sheets of drawings; listed as the inventor Cheng-Fang Hsaio; the docket number was 1496-941, and a non-publication request was also filed.

A Filing Receipt was mailed on January 20, 2004, also indicating a motor, with a the filing date of October 17, 2003; listing the inventor as Cheng-Fang Hsiao; the attorney docket number also as 1496-941, the application was assigned to art unit 2875, and contained 2 drawings, 4 claims and 1 independent claim.

A review of the file for the above-identified application reveals that the application was filed on October 17, 2003.

The original specification in the application file was for the "STRUCTURE FOR FASTENING ILLUMINATION TUBES OF A CLUSTER LAMP" (lamp), and the title of the invention and drawings have been amended to also reflect a lamp and eight (8) sheets of drawings.

The application transmittal, however, remained that of the "DIRECT CURRENT BRUSHLESS VIBRATION MOTOR", the inventor as Cheng-Fang Hsiao; attorney docket number 1496-941, and did not include a Non-publication request.

The oath/declaration contained the same title (Motor), and listed the inventor as Cheng-Fang Hsiao.

The Application Data Sheet ("ADS"), listed the title of the motor; the inventor as Hsiao, and the attorney docket number as 1496-941.

Summary: We have a specification for a lamp, with drawings for the lamp, but we have a application transmittal form, oath declaration, and ADS for a motor.

Analysis

It is obvious that the specification, drawings, application transmittal, oath/declaration and ADS in application 10/688,185 were inadvertently switched with the drawings, application transmittal, oath/declaration and ADS in application 10/687,115. The Office apologizes for any inconvenience caused to Applicants.

The title and drawings in the respective applications have been amended, and the non-publication request, mis-filed in application 10/688,185, has been rescinded[1].

The oath/declaration and ADS filed in application 10/688,185 will be removed and transferred to application no. 10/687,115.

The oath/declaration, foreign priority document and ADS filed in application 10/687,115 will be removed and transferred to application no. 10/688,185.

The inventive entity has been corrected consistent with this Decision.

The $400.00 petition fee has been refunded to Petitioner's deposit account.

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

Derek L. Woods
Attorney
Office of Petitions

[1] Because the non-publication request was included in the application transmittal document, which was mis-filed, and because it has since been rescinded (thereby correcting the mis-filing), the application transmittal documents will not be transferred.

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Houston TX 77002

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OFFICE OF PETITIONS

In re Application of	:	
Cheng-Fang Hsiao	:	
Application No. 10/688185	:	ON PETITION
Filing Date: 10/20/2003	:	
Attorney Docket Number:	:	
1496-941	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed December 5, 2006.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the final office action, mailed January 25, 2006. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on April 26, 2006. A Notice of Abandonment was mailed August 16, 2006.

Applicant files the instant petition, RCE and submission in the form of an amendment. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 2834 for processing of the RCE and amendment.

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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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

Mail Date: 04/21/2010

Applicant	: Carl W. Dirk	: DECISION ON REQUEST FOR
Patent Number	: 7663739	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/688,200	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1826** 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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Robert R. Williams
IBM Corporation, Dept. 917
3605 Highway 52 North
Rochester MN 55901-7829

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NOV 10 2008

In re Application of :
Carnevale :
Application No. 10/688,220 : DECISION ON PETITION
Filed: October 16, 2003 :
Attorney Docket No. ROC920030232US1 :

This is a decision on the petition under the unavoidable standard of 37 CFR 1.137(a), filed September 22, 2008 (certificate of mailing date September 17, 2008), to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." 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 properly reply to the final Office action, mailed January 11, 2008. Petitioners filed an amendment after final on March 12, 2008 (certificate of mailing date March 11, 2008). The amendment after final failed to place the above-identified application in *prima facie* condition for allowance, as stated in the August 20, 2008 Advisory Action. The application became abandoned on April 12, 2008.

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

The instant petition lacks item (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 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

In the instant case, petitioners have failed to provide adequate evidence that the delay was unavoidable.

Petitioners are reminded that after a final action, there are only five possible replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) an RCE. To be a proper reply, an amendment after final must eliminate all of the Examiner's objections and rejections, and thus place the case in *prima facie* condition for allowance.

Petitioners' amendment after final, filed March 12, 2008 (certificate of mailing date March 11, 2008), failed to eliminate all of the Examiner's rejections. The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last Office action, or refusal to admit the same, shall not operate to save the application from abandonment. "[T]he admission of, or refusal to admit, any amendment after final rejection, and any proceedings relative thereto, shall not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135." See 37 CFR 1.116(a).

Petitioners' failure to appreciate that the filing of a proposed amendment under 37 CFR 1.116 on March 12, 2008 (certificate of mailing date March 11, 2008) did not relieve petitioners of the burden of timely filing a notice of appeal or other proper response to avoid abandonment of the above-identified application is unfortunate, but it is not unavoidable delay. The abandonment of

an application subject to a final Office action is not "unavoidable" within the meaning of 35 U.S.C. 133 and 37 CFR 1.137(a) in the situation in which the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. At 53162, 1203 Off. Gaz. Pat. Office at 89 (response to comment 66).

Petitioners are reminded that an Advisory Action does not start a new period for response.. The application became abandoned because petitioners did not submit a proper reply to the final Office action.

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

The undersigned suggests that petitioners file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

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

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

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

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

Telephone inquiries 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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ST. LOUIS MO 63105-3441

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OFFICE OF PETITIONS

In re Application of :
Rapp, et al. :
Application No. 10/688,234 : DECISION ON PETITION
Filed: October 17, 2003 : TO WITHDRAW
Attorney Docket No. 63153-017 : 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 3, 2006.

The request is **APPROVED**.

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

The request was signed by Robert C. Haldiman on behalf of all attorneys of record who are associated with customer No. 29493.

All attorneys/agents associated with the Customer Number 29493 have been withdrawn.

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

All future correspondence will be directed to the first named inventor Gary Rapp at the address indicated below.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Gary L. Rapp
R.R. #1 Box 177
Athens, IL 62613

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Paper No: __

MOORE, HANSEN
& SUMNER, PLLP
225 SOUTH SIXTH ST
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
Price :
Application No. 10/688,239 : DECISION
Filing Date: 17 October, 2003 :
Attorney Docket No. A45-015-01-US :

This is a decision on the petition filed on 22 December, 2005, to withdraw the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition 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 9 June, 2005, with reply due absent extension of time on or before 9 September, 2005;
- the application went abandoned after midnight 9 September, 2005;
- the Office mailed the Notice of Abandonment on 16 December, 2005–however, therein the Office erroneously stated the mail date of the Office action as 31 May, 2005;
- on 22 December, 2005, Petitioner filed the instant petition, evidencing therewith what are averred to be true copies of, *inter alia*, the transmittal–over a (Friday) 9 December, 2005,

certificate of mailing–of the reply to the Office action (in the form of an amendment), a request and fee for a three- (3-) month extension of time and the date-stamped (""OIPE DEC 12 2005") receipt card.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

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

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

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

As to a Request to Withdraw
the Holding of Abandonment

Petitioner alleges timely reply to the Office action, and supports the allegation with the above-referenced documentation.

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

Petitioner satisfied the showing required under Delgar and thus to be considered under the provisions of 37 C.F.R. §1.181.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted** and the Abandonment of 16 December, 2005, having been improvidently entered hereby is withdrawn.

The instant application is released to Technology Center 3600 for further processing in due course.

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

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

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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OFFICE OF PETITIONS

AMGEN, INC.
MAIL STOP 28-2-C
ONE AMGEN CENTER DRIVE
THOUSAND OAKS, CA 91320-1799

In re Application of :
Balan, et. al. :
Application No. 10/688,246 : DECISION ON PETITION
Filed: October 16, 2003 :
Attorney Docket No. A-825 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 5, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Non-Final Rejection mailed, September 10, 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 December 11, 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 After Non-Final Rejection, (2) the petition fee of $1540, 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 1624 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

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HUSCH BLACKWELL SANDERS, LLP
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS, MO 63105-3441

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OFFICE OF PETITIONS

In re Application of :
Robert Kissel :
Application No. 10/688, 251 : DECISION ON PETITION
Filed: October 17, 2003 : TO WITHDRAW
Attorney Docket No. 74445-002 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 15, 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 Rebecca J. Brandau on behalf of all attorneys of record who are associated with customer No. 29493.

All attorneys/agents associated with the Customer Number 29493 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 July 17, 2008 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ROBERT KISSEL
629 SOUTH CAROLINA COURT
ST. CHARLES, MO 63303-6470

cc: GREGORY E. UPCHURCH
1000 DES PERE ROAD
SUITE 210
ST LOUIS, MO 63131

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/688,251	10/17/2003	Robert Kissel	74445-002

CONFIRMATION NO. 4577

POWER OF ATTORNEY NOTICE

29493
HUSCH BLACKWELL SANDERS LLP
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS, MO 63105-3441

OC00000003158492B

Date Mailed: 08/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/15/2008.

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

/amwise/

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

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Paper No.

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Patent No. 7,280,872	:	
Mosesov et al.	:	
Issue Date: October 9, 2007	:	LETTER REGARDING
Application No. 10/688,253	:	PATENT TERM ADJUSTMENT
Filed: October 16, 2003	:	
Atty Docket No. 22570-028001	:	

This is in response to the LETTER REGARDING PATENT TERM ADJUSTMENT filed October 2, 2007, pursuant to patentee's duty of good faith and candor. Patentees disclose that the patent term adjustment indicated in the patent may be longer than appropriate.

The request for correction of the patent term adjustment indicated in the patent is **DISMISSED**.

On October 9, 2007, the above-identified application matured into U.S. Patent No. 7,280,872, with a revised Patent Term Adjustment of 415 days. Prior to the issuance of the patent, on October 2, 2007, then applicants disclosed that the PTA appeared to be longer than appropriate. They did not state a basis for this conclusion.

Patentees' attempt at candor is appreciated. A review of the record (and issued patent) confirms that the patent issued with a correct revised patent term adjustment of 415 days. It is noted that the revised patent term adjustment included an additional reduction (at the time of issuance) of 42 days for the filing of drawings after the mailing of the notice. See 1.704(c)(10)). Patentees should advise the Office if there is another basis upon which they believe the PTA is longer than appropriate.

To the extent that this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

KAMRIN T. MACKNIGHT
GENENCOR INTERNATIONAL, INC.
925 PAGE MILL ROAD
PALO ALTO, CA 94304-1013

In re Application of :
Wolfgang Aehle et al :
Application No. 10/688,255 : ON PETITION
Filed: October 16, 2003 :
Attorney Docket No. GC816 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 21, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 22, 2007.

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.

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

This matter is being referred to Technology Center AU 1631 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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GROUP PATENT COUNSEL
BLACK & DECKER CORPORATION
MAIL STOP TW199
701 E. JOPPA ROAD
TOWNSON, MD 21286

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Norbert **HAHN** :
Application No. 10/688,261 : DECISION ON PETITION
Filed: October 17, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **P-US-PR-1088** :

This is a decision on the petition under 37 CFR 1.137(b), filed January 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 12, 2008, which set a shortened statutory period for reply of three (3) months. An advisory action was mailed December 16, 2008, giving an additional two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 13, 2008.

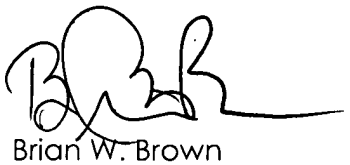
It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810,

and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 3721 for appropriate action by the Examiner in the normal course of business on the reply received January 16, 2009.



Brian W. Brown
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 18, 2007

TO SPE OF : ART UNIT 2188 10/688277

SUBJECT : Request for Certificate of Correction on Patent No.: 7167960 B2

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

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

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

Thank You For Your Assistance

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

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

Comments:

_____

_____

_____

_____

_____

_____ 288
SPE **Art Unit**

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Houston TX 77252-2175

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OFFICE OF PETITIONS

In re Application of :
Tabanou et al. :
Application No. 10/688,280 :
Filed: October 17, 2003 : ON PETITION
Attorney Docket No. :
20.2892 :

This is a decision in response to the Petition to Correct the Filing Date of a Patent Application, filed March 29, 2004, which is properly treated as a petition under 37 CFR 1.10(d), requesting the application be accorded a filing date of October 17, 2003, instead of the presently accorded filing date of October 16, 2003.

Petitioner alleges that the application was deposited in Express Mail service on October 17, 2003. Petitioner has filed the appropriate documentary and corroborating evidence demonstrating that October 17, 2003, was the date the correspondence was deposited Express Mail Post Office to Addressee.

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

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to October 17, 2003.

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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SAN DIEGO CA 92130-2081

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OFFICE OF PETITIONS

In re Application of :
Yan Borodovsky :
Application No. 10/688,306 :
Filed: October 17, 2003 :
Attorney Docket No. 10559/879001/P17481 :

ON PETITION

This is a decision on the petition, filed October 25, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 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 should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2851 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[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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Cynthia S. Murphy
Renner, Otto, Boisselle & Sklar, LLP
Nineteenth Floor
1621 Euclid Avenue
Cleveland OH 44115-2191

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JUN 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Landram, et al. :
Application No. 10/688,316 : ON PETITION
Filed: October 17, 2003 :
Attorney Docket No. TELNP0200US :
For: SELF CONFIGURING MOBILE DEVICE AND SYSTEM

This is a decision on the petition under 37 CFR 1.137(a), filed May 24, 2007, to revive the above-identified application. The petition will be treated under 37 CFR 1.181 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 Office contended that the above-identified application became abandoned for failure to submit a reply to the July 18, 2006 final Office action, which set a three month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on October 19, 2006. The filing of the present petition precedes the mailing of A Notice of Abandonment.

Petitioners allege that the July 18, 2006 final Office action 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]

Petitioners have submitted a copy of the docket record where the reply requirement would have been entered had the July 18, 2006 final Office action been received. In addition, practitioner referenced the record in the petition and stated that a review of the file jacket and the docket record for the July 18, 2006 final Office action was fruitless.

Petitioners have established non-receipt. The petition under 37 CFR 1.181 is **granted** and the holding of abandonment is withdrawn.

The $500.00 Rule 137(a) petition fee will be credited to deposit account no. 18-0988.

It is unnecessary to re-mail the Office action because petitioners have filed a reply to the July 18, 2006 final Office action with the instant petition.

After the mailing of this decision, the application will be returned to Technology Center AU 2141 for consideration of the reply filed on May 24, 2007.

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

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,316	10/17/2003	Fredrick J. Landram	TELN . P0200US	8879

7590 01/07/2008

Cynthia S. Murphy
Renner, Otto, Boisselle & Sklar, LLP
Nineteenth Floor
1621 Euclid Avenue
Cleveland, OH 44115-2191

EXAMINER	
BAYARD, DJENANE M	
ART UNIT	**PAPER NUMBER**
2141	

MAIL DATE	DELIVERY MODE
01/07/2008	PAPER

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

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

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JAN 07 2008

TECHNOLOGY CENTER 2100

1/4/08

Cynthia S. Murphy
RENNER, OTTO, BOISSELLE & SKLAR, LLP
NINETEENTH FLOOR
1621 EUCLID AVENUE
CLEVELAND OH 44115-2191

In re Application of:
Frederick J. LANDRAM, ET AL
Application No. 10/688,316
Filed: October 20, 2003
For: **SELF CONFIGURING MOBILE DEVICE AND SYSTEM**

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO CONSIDER

This is a decision on the Petition filed November 21, 2007 under 37 CFR § 1.181 to invoke Supervisory Authority and require the Examiner to consider the Declaration filed on September 11, 2007.

The petition is **DISMISSED AS MOOT**.

RELEVANT PROSECUTION HISTORY

July 18, 2006	A Final Office action was mailed.
May 24, 2007	A Petition to revive the instant application under 37 CFR 1.137(a) was filed. The applicant asserted that the delay for filing a response was unavoidable because of the non-receipt of the Final Office action. A Declaration under 37 CFR 1.131 was also filed as Reply to the July 18, 2006 Final Office.
June 4, 2007	Decision on the petition was GRANTED and stated to return the application to the Technology Center AU 2141 for consideration of the Reply as being timely filed.
July 13, 2007	An Advisory action was mailed, indicating the Reply did not place the application in condition for allowance and the Declaration under 37 CFR 1.131 would not be entered.

Aug 29, 2007	A miscellaneous communication (PTO-90C) was mailed; thus, the mailing date of the Final Action was re-started.
Sep 11, 2007	A Response including the Declaration under 37 CFR 1.131 was filed.
Oct 02, 2007	An Advisory action was mailed, indicating the Response filed Sep 11, 2007 would not be entered.
Nov 21, 2007	The instant Petition was filed, requesting the Examiner to consider the 37 CFR 1.131 Declaration mailed Sep 11, 2007. The petitioner alleges that the Declaration was timely and a showing of good and sufficient reasons why the declaration was necessary and was not earlier presented was provided at the time.
Dec 31, 2007	A Request for Continue Examination (RCE) under 37 CFR 1.114, a request for 1-month extension of time and an amendment were filed.

ANLYSIS

MPEP § 710.06 (I.)(C) states that the Office will grant a petition to restart the previously set period for reply to an Office action to run from the date of receipt of the Office action at the correspondence address when:

> (C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address.

In review of the Decision mailed June 4, 2007, it is noticed that the decision, though not explicitly stated, implied that the date of the Final Office action was restarted upon the information of the non-receipt Final Office action by the examiner on Mar 26, 2007. The date of receipt was established when the applicant viewed the Final Office Action via the Patent Application Information Retrial (PAIR) system to prepare his Reply of May 28, 2007. On Aug 29, 2007, the examiner of record mailed out another Final Office action; thus, a new shortened statutory period for response to the Final Office action has been set to August 29, 2007.

MPEP § 706.07(h)(V) states, in part:

> If an applicant timely files an RCE with the fee set forth in 37 CFR § 1.17(e) and a submission that meets the reply requirement of 37 CFR § 1.111, the Office will withdraw

> the finality of any Office action to which a reply is outstanding and the submission will be entered and considered ...

In view of MPEP § 706.07(h)(V) and the timely filing an RCE with the fee set forth in 37 CFR § 1.17(e) and an amendment including a 131 Declaration that meets the reply requirements of 37 CFR § 1.111, the Office is hereby withdrawn the finality of any Office action to which a reply is outstanding and the amendment will be entered and considered.

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

Upon the mailing of this decision, the application will be forwarded to the Technology Center support staff for processing and entering the RCE and the amendment filed on December 31, 2007. From there, the application will be forwarded to the examiner for appropriate action.

Any inquiry concerning this decision should be directed to Kim Huynh, whose telephone number is (571) 272-4147.

Jeffrey Gaffin, Acting Director
Technology Center 2100
Computer Architecture, Software,
and Information Security

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Technology Center 2100

Cynthia S. Murphy
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NINETEENTH FLOOR
1621 EUCLID AVENUE
CLEVELAND OH 44115-2191

In re Application of:
Frederick J. LANDRAM, ET AL
Application No. 10/688,316
Filed: October 20, 2003
For: **SELF CONFIGURING MOBILE DEVICE AND SYSTEM**

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO CONSIDER

This is a decision on the Petition filed November 21, 2007 under 37 CFR § 1.181 to invoke Supervisory Authority and require the Examiner to consider the Declaration filed on September 11, 2007.

The petition is **DISMISSED AS MOOT**.

RELEVANT PROSECUTION HISTORY

July 18, 2006	A Final Office action was mailed.
May 24, 2007	A Petition to revive the instant application under 37 CFR 1.137(a) was filed. The applicant asserted that the delay for filing a response was unavoidable because of the non-receipt of the Final Office action. A Declaration under 37 CFR 1.131 was also filed as Reply to the July 18, 2006 Final Office.
June 4, 2007	Decision on the petition was GRANTED and stated to return the application to the Technology Center AU 2141 for consideration of the Reply as being timely filed.
July 13, 2007	An Advisory action was mailed, indicating the Reply did not place the application in condition for allowance and the Declaration under 37 CFR 1.131 would not be entered.

Aug 29, 2007	A miscellaneous communication (PTO-90C) was mailed; thus, the mailing date of the Final Action was re-started.
Sep 11, 2007	A Response including the Declaration under 37 CFR 1.131 was filed.
Oct 02, 2007	An Advisory action was mailed, indicating the Response filed Sep 11, 2007 would not be entered.
Nov 21, 2007	The instant Petition was filed, requesting the Examiner to consider the 37 CFR 1.131 Declaration mailed Sep 11, 2007. The petitioner alleges that the Declaration was timely and a showing of good and sufficient reasons why the declaration was necessary and was not earlier presented was provided at the time.
Dec 31, 2007	A Request for Continue Examination (RCE) under 37 CFR 1.114, a request for 1-month extension of time and an amendment were filed.

ANLYSIS

MPEP § 710.06 (I.)(C) states that the Office will grant a petition to restart the previously set period for reply to an Office action to run from the date of receipt of the Office action at the correspondence address when:

> (C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address.

In review of the Decision mailed June 4, 2007, it is noticed that the decision, though not explicitly stated, implied that the date of the Final Office action was restarted upon the information of the non-receipt Final Office action by the examiner on Mar 26, 2007. The date of receipt was established when the applicant viewed the Final Office Action via the Patent Application Information Retrial (PAIR) system to prepare his Reply of May 28, 2007. On Aug 29, 2007, the examiner of record mailed out another Final Office action; thus, a new shortened statutory period for response to the Final Office action has been set to August 29, 2007.

MPEP § 706.07(h)(V) states, in part:

> If an applicant timely files an RCE with the fee set forth in 37 CFR § 1.17(e) and a submission that meets the reply requirement of 37 CFR § 1.111, the Office will withdraw

> the finality of any Office action to which a reply is outstanding and the submission will be entered and considered ...

In view of MPEP § 706.07(h)(V) and the timely filing an RCE with the fee set forth in 37 CFR § 1.17(e) and an amendment including a 131 Declaration that meets the reply requirements of 37 CFR § 1.111, the Office is hereby withdrawn the finality of any Office action to which a reply is outstanding and the amendment will be entered and considered.

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

Upon the mailing of this decision, the application will be forwarded to the Technology Center support staff for processing and entering the RCE and the amendment filed on December 31, 2007. From there, the application will be forwarded to the examiner for appropriate action.

Any inquiry concerning this decision should be directed to Kim Huynh, whose telephone number is (571) 272-4147.

Jeffrey Gaffin, Acting Director
Technology Center 2100
Computer Architecture, Software,
and Information Security

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

MAILED

MAY 18 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Shoji Kodama :
Application No. 10/688,329 : DECISION ON PETITION
Filed: October 17, 2003 : TO MAKE SPECIAL
For: **METHOD AND APPARATUS FOR FILE REPLICATION WITH A COMMON FORMAT** :

This is a decision on the petition filed October 17, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

The petitioner meets the above-listed requirements. However, it is noted that the Information Disclosure Statement (IDS) filed October 20, 2005 includes a statement which appears to contradict that provided in the petition filed October 17, 2005. Specifically, the petition states that a search was performed by an independent patent search firm; whereas the IDS includes a statement that "no representation is being made that a search has been conducted or that this statement encompasses all the possible relevant information".

Accordingly, the petition is **DENIED**.

Petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. Any request for reconsideration should include clarification in regard to item (4) above, specifically the inconsistency between the statements provided in the petition filed October 17, 2005 and the IDS filed October 20, 2005 as to whether or not a search was in fact provided.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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Commissioner for Patents
United States Patent and Trademark Office
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JUL 25 2006

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TECHNOLOGY CENTER 2600

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

In re Application of :
Shoji Kodama :
Application No. 10/688,329 : DECISION ON PETITION
Filed: October 17, 2003 : TO MAKE SPECIAL
For: **METHOD AND APPARATUS FOR FILE REPLICATION WITH A COMMON FORMAT** :

This is a decision on the renewed petition filed June 7, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

The petitioner meets the above-listed requirements. Furthermore, the renewed petition addresses an inconsistency in statements made in the earlier filed Information Disclosure Statement. Accordingly, the petition is **GRANTED**.

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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JJGJr. 09-05

Paper No: __

GREGORY SMITH & ASSOCIATES
SUITE 317
3900 NEWPARK MALL ROAD
NEWARK CA 94560

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SEP 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Valentine :
Application No.10/688,339 : ON PETITION
Filed: 17 October, 2003 :
Attorney Docket No.: 324-001U :

This is a decision on the petition filed on 15 July, 2005, under 37 C.F.R. §1.53, to obtain a filing date of 17 October, 2003, for the instant application.

For the reasons set forth below, the petition is **GRANTED**.

BACKGROUND

After this application was deposited on 17 October, 2003:

- on 14 February, 2005, Petitioner filed an information disclosure statement;
- on 12 May, 2005, the Office mailed a Notice of Incomplete Nonprovisional Application, indicating that the application had not been accorded a filing date because the application was deposited without drawings as required by 35 U.S.C. §113. OIPE indicated that Petitioner might: contend via petition that one or more drawings had been submitted and/or that the application did not require drawings for an understanding of the invention sought to be patented; and Petitioner might file a petition under 37 C.F.R. §1.182 (considered under 37 C.F.R. §1.53) as to the former contention; or submit the omitted figure and accept the date of submittal as the filing date, and OIPE set a two- (2-) month period for reply;

- Petitioner filed the instant petition (with fee) on 15 July, 2005, with, *inter alia*, a copy of the date-stamped ("10/07/03") receipt card (see: MPEP §503[1]), a copy of the 6 sheets of drawings, Fig(s). 1A - 6, as described in the application, as averred to have been filed, and a request for a filing date of 17 October, 2003, for the application.

Analysis

A search of the official file reveals that:

- on 17 October, 2003, Petitioner deposited the instant application;

- the date-stamped receipt card evidences the following, in pertinent part:

* * *

[x] Specification, Claims and Abstract 13 Pages

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

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

* * *

RETURN POSTCARD

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

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

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

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

[x] Drawings 6 Sheets

* * *

The six (6) sheets of drawings submitted by Petitioner with the instant petition are numbered "1/6" - "6/6" and the figures are identified:

- on 1/6: "Fig. 1A," "Fig. 1B";
- on 2/6: "Fig. 2A," "Fig. 2B";
- on 3/6: "Fig. 3A," "Fig. 3B";
- on 4/6: "Fig. 4A," "Fig. 4B";
- on 5/6: "Fig. 5"; and
- on 6/6: "Fig. 6."

Because Petitioner's receipt card adequately itemized the contents of the application on the receipt card, it is concluded that the application, including 6 sheets of drawing containing Figs. 1A - 6, as described in the specification, was deposited with the Office on 17 October, 2003, and the 6 sheets of drawings containing Figs. 1A - 6, as described in the specification, subsequently were misplaced in the Office.

Accordingly, the application, including 6 sheets of drawings containing Figs. 1A - 6, is entitled to a filing date of 17 October, 2003.

The Notice mailed on 12 May, 2005, was sent in error and is hereby vacated to the extent that it stated that the application was filed omitting drawings, specifically 6 sheets of drawings containing Figs. 1A - 6, and that the application was not to be accorded a filing date.

CONCLUSION

The petition is **granted** and the petition fee waived and refunded.

This application is released to OIPE for further processing with a filing date of 17 October, 2003, for the entire application with pages 1 - 13 of the specification (description, claims and abstract) and 6 sheet of drawings containing therein for Figs. 1A - 6, as described in the specification, using:

- **pages 1 - 13 of specification (description, claims and abstract) deposited on 17 October, 2003; and**

- **and 6 sheets of drawings containing Figs. 1A - 6, as described in the specification deposited on 15 July, 2005; and further**

with direction to OIPE to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 17 October, 2003, and reflecting therein that 13 pages of specification (description, claims and abstract) and 6 sheets of drawings were present on filing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/688,353	10/17/2003	2818	1204	5646-115	9	25	7

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

CONFIRMATION NO. 2287
CORRECTED FILING RECEIPT

OC000000011935117

Date Mailed: 02/20/2004

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

Applicant(s)

Harmeet Bhugra, San Jose, CA;
Kenneth Branth, Redwood City, CA;
John R. Mick JR., Sunnyvale, CA;
Jakob Saxtorph, San Jose, CA;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/620,161 07/15/2003

Foreign Applications

If Required, Foreign Filing License Granted: 01/22/2004

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

CAM-based search engines that support pipelined multi-database search operations using replacement search key segments

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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APR 28 2005

OFFICE OF PETITIONS

In re Application of :
Roger W. Phillips, Richard L. Bonkowski, Patrick K. Higgins, :
and Charles T. Markantes : DECISION ON PETITION
Application No. 10/688,357 :
Filed: October 17, 2003 :
Attorney Docket No. 48930-01702 :
Title: SECURITY ARTICLES HAVING DIFFRACTIVE :
SURFACES AND COLOR SHIFTING BACKGROUNDS :

This is a decision on the petition under 37 C.F.R. §1.182, filed January 31, 2005, to change the order of the names of the inventors.

The petition is **GRANTED**.

The petition fee has been received1 and the order of the names of the inventors has been changed as follows:

Roger W. Phillips
Richard L. Bonkowski
Patrick K. Higgins
Charles T. Markantes

A filing receipt reflecting this change is enclosed.

After this decision is mailed, the application file will be forwarded to Technology Center 1700 for further processing.

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

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

Encl. Corrected Filing Receipt

1 Petitioner will note that the fee associated with the filing of this petition is not $130, but rather $400. The correct petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/28/07

TO SPE OF : ART UNIT 1772

SUBJECT : Request for Certificate of Correction on Patent No.: 7005178

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

All changes approved. Petition for change in order of inventor's names was granted 4/28/2005.

/David R. Sample/ SPE 1794

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 8, 2006

TO SPE OF : ART UNIT 2188

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/688359 Patent No.: 7,051,156 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ 2188

SPE **Art Unit**

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Paper No. None

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

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AUG 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Gary W. Tripp :
Application No. 10/688,361 :
Filed: October 17, 2003 : DECISION ON PETITION
Attorney Docket No. ARCE-1-1008 :
Title: PEER-TO-PEER AUTOMATED :
ANONYMOUS ASYNCHRONOUS FILE :
SHARING :

This is a decision on the petition filed May 24, 2004.

On October 17, 2003, the above-identified application was deposited. On January 26, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application- Filing Date Not Granted (notice)", advising applicant that the application appeared to have been deposited without at least one claim. The notice further indicated that Figures 46 and 47 appeared to be missing.

On May 24, 2004, Petitioner submitted the instant petition, along with an amendment which deletes references to figures 46 and 47, one claim, and a two-month extension to time to make timely this response.

Petitioner has further set forth that claims 1-7 were constructively present on filing via an incorporation by reference. A review of the Utility Patent Application Transmittal sheet in the electronic file has shown that the instant application is a continuation application, and that the parent application was incorporated by reference.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted. It is noted that the application transmittal letter identifies this application as a continuation of prior application No. 09/910,460, and specifically incorporated by reference the disclosure of the prior application.

Section 201.06(c) of the MPEP sets forth, in part:

> an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.
>
> (Emphasis added).

If petitioner desires for the examiner to enter claims 1-7 of the parent application, then Petitioner may submit these claims via an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior application. It is noted that Petitioner has submitted one claim with this petition. Unfortunately, Petitioner has submitted neither claims 1-6, nor an amendment which directs the entry of claims 1-7.

For these reasons, the petition is dismissed.

Claim 7, submitted with the instant petition, will not be entered. Should petitioner wish for claims 1-7 of the parent to be entered, an amendment must be filed.

The original application papers will include only those application papers present on the date of deposit.

---

1 See MPEP 608.02(a).

The petition fee of $130.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 17, 2003, using only the application papers filed on that date.

After the mailing of this decision, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

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

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COMMISSIONER FOR PATENTS
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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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JUL 12 2005

OFFICE OF PETITIONS

Applicant: Chen
Appl. No.: 10/688,380
Filing Date: October 17, 2003
Title: TREATING SYNDROME X WITH SUBSTITUTED TETRALINS AND INDANES
Attorney Docket No.: PRD-48-NP
Pub. No.: US 2004/0171680 A1
Pub. Date: September 2, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b) filed on June 16, 2005, for the above-identified application.

The request is DISMISSED.

Applicant request that the application be republished because the patent application publication contains a material error, as application published with the wrong specification and claims, as it included the specification and claims of copending application 10/688,572 filed on the same day.

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 request for corrected publication received on June 16, 2005, was not timely filed under 37 CFR 1.221(b), and it has not been considered because it was not timely filed.

A review of the Office records indicates the application was correctly published. Applicant's representative alleges that the PTO published the wrong application and references the transmittal letter as evidence that the correct specification and claims were filed and that the wrong specification and claims were published. The transmittal letter is not evidence of what

[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).

was filed in an application. Applicant may want to file a filing date petition with any evidence of what was filed and received by the Office.

Applicant should request for reconsideration this decision if the filing date petition is granted.

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

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

By facsimile: 703-872-9306 or after July 15, 2005, 571-273-8300

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

Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/688,399	10/16/2003	2834	770	1229.007	5	20	3

CONFIRMATION NO. 1345

CORRECTED FILING RECEIPT

37421
WAX LAW GROUP
2118 WILSHIRE BOULEVARD, SUITE 407
SANTA MONICA, CA 90403

OC000000015954048

Date Mailed: 05/05/2005

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)

Mo Xu, Singapore, SINGAPORE;
Victor C. Choo, Singapore, SINGAPORE;
YiRen Hong, Singapore, SINGAPORE;
PohLye Lim, Singapore, SINGAPORE;
SiewMing Ng, Singapore, SINGAPORE;

Power of Attorney:

Joseph Villella Jr–30599
David Lucente–36202
Carol Bordas–37284
Raghunath Minisandram–38683
Mitchell McCarthy–38794
Paul Dietz–38858
Derek Berger–45401
Kirk Cesari–47479
Jennifer Buenzow–50124
Jeffrey Wax–51364

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/472,304 05/20/2003

Foreign Applications

If Required, Foreign Filing License Granted: 01/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/688,399

Projected Publication Date: Not Applicable

BEST AVAILABLE COPY

Non-Publication Request: No

Early Publication Request: No

Title

Base plate for spindle motor

Preliminary Class

310

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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

COPY MAILED

SEP 22 2006

OFFICE OF PETITIONS

In re Application of :
Catahan, et al. :
Application No. 10/688,425 : DECISION ON PETITION
Filed: October 16, 2003 : TO WITHDRAW
Attorney Docket No. 005306.P104 : 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 16, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/688,425	10/16/2003	Nardo B. Catahan JR.	5306P104

CONFIRMATION NO. 2230

OC000000020508063

OC000000020508063

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 09/20/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2006.

- 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 McWise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

7+

Paper No.: _____

DATE : January 6, 2007

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/688439 Patent No.: 7,012,010 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

Carl Whitehead — 2813

SPE — **Art Unit**

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EDWARD G. GREIVE
RENNER KENNER GREIVE BOBAK TAYLOR & WEBER
FIRST NATIONAL TOWER, FOURTH FLOOR
AKRON, OH 44308-1456

MAILED

MAY 04 2009

OFFICE OF PETITIONS

In re Application of :
Fabrice BILLARANT :
Application No. 10/688,483 : DECISION GRANTING PETITION
Filed: October 17, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **CAC.P0033** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 1, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 3, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3677 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:
Jeffrey M. Linnen, et al.	:
Serial No.: 10/688,489	: PETITION DECISION
Filed: October 16, 2003	:
Attorney Docket No.: GP140-04.UT	:

This is a decision on the REQUEST FOR CHANGE OF INVENTORSHIP PURSUANT TO 37 CFR 1.48(b). The petition was filed October 28, 2005. 37 CFR 1.48(b) sets forth the requirements for a change of inventorship due to amendment or cancellation of claims so that fewer than all of the currently named inventors are the actual inventors of the invention being claimed. A request for such a change of inventorship requires a request, signed by a party as indicated in 37 CFR 1.33(b), to correct the inventorship that identifies the named inventor or inventors being deleted and acknowledges that the inventor's invention is no longer being claimed in the nonprovisional application, and the required fee under 37 CFR 1.17(i).

A review of the application record indicates that the petition meets all of the requirements for acceptance of the request for a change in inventorship under 37 CFR 1.48 (b).

The petition is **GRANTED**.

In view of the papers filed October 28, 2005, the inventorship in this nonprovisional application has been changed by the deletion of Reinhold Pollner, Wen Wu, Geoffrey G. Dennis, and Paul M. Darby.

James C. Housel
Supervisory Patent Examiner
Art Unit 1648

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,851,385	2005-02-08	10/688,490	2003-10-16	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael Tavella/	Date (YYYY-MM-DD)	2009-02-17
Name	Michael Tavella	Registration Number	29351

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 record s.

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
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P.O. Box 1450
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www.uspto.gov

In re Patent No. 6851385
Issue Date: February 8,2005
Application No. 10688490
Filed: October 16,2003
Attorney Docket No.

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

This is a decision on the electronic petition, filed February 17,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 17,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

JEAN M. MACHELEDT
501 SKYSAIL LANE
SUITE B100
FORT COLLINS CO 80525-3133

COPY MAILED

MAR 22 2004

OFFICE OF PETITIONS

In re Application of
Kevin E. Willey
Application No. 10/688,492
Filed: October 17, 2003
Attorney Docket No. KWIL-101A

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed February 23, 2004, to correct the filing date to October 17, 2003, rather than the presently accorded filing date of October 18, 2003.

Petitioner alleges that the application was deposited in Express Mail service on October 17, 2003. In support, on February 23, 2004, petitioner supplied a copy of Express Mail Label No. EU777079655US (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 October 17, 2003.

In view of the above, the petition is granted and since no fee is due, none has been charged.

The application is being forwarded to the Office of Initial Patent Examination for correction of the **filing date to October 17, 2003** and for issuance of a corrected filing receipt.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at 703-305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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

IMMUNEX CORPORATION
LAW DEPARTMENT
1201 AMGEN COURT WEST
SEATTLE WA 98119

COPY MAILED

FEB 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Bruce A. Mosley et al.	:	
Application No. 10/688,495	:	DECISION ON PETITION
Filed: October 17, 2003	:	
Attorney Docket No.:	:	
2301-M	:	
Title: ANTIBODIES TO	:	
INTERLEUKIN-4 RECEPTORS AND	:	
USES THEREOF	:	

This is a decision on the petition filed September 27, 2004, requesting that Figure 17 be accorded a filing date of October 17, 2003, as part of the original disclosure.

The application was deposited on October 17, 2003. However, on September 9, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (notice)," stating that the application had been accorded a filing date, and advising applicants that the application appeared to have been deposited without Figure 17. The notice further indicated that a computer readable form copy of the sequence listing had not been provided.

In response, on September 27, 2004, Petitioner filed the present petition. The petition is further accompanied by a copy of Figure 17, along with a copy of applicants' postcard receipt acknowledging receipt of "Drawings (21 sheets, Figs. 1-17)" in the United States Patent and Trademark Office (Office) on October

17, 2003. Applicants request that Figure 17 be accorded a filing date of October 17, 2003 as part of the original disclosure.

Regarding the sequence listing, it is noted that pursuant to the final rulemaking published at 55 FR 18230 (May 1, 1990), the final rules do not apply to continual or divisional applications filed after the effective date. Since this application claims continuity to an application with a filing date of February 14, 1990, the effective date of this application precedes May 1, 1990, and 37 C.F.R. §§1.821-1.825 do not apply. As such, a computer readable form copy of the sequence listing is not required, and this portion of the notice is hereby **VACATED**.

It is noted that 20 sheets of drawings have been located in the electronic file, containing Figures 1 - 16.

Upon review of the record, the above-mentioned figure has not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 17, 2003 included Figure 17, and the sheet containing this figure was subsequently misplaced in the Office.

Therefore, the application, including Figure 17, was complete on filing and this figure is entitled to a filing date of October 17, 2003 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed September 9, 2004 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 17, 2003, using the original application papers filed on that date, as well as the Figure 17 submitted on September 27, 2004, 2004 and for indication in Office records that this figure was present on filing.

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

Paul Shanoski

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/25/2010

Applicant	: Chai-Mei Jimmy Yu	: DECISION ON REQUEST FOR
Patent Number	: 7638555	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/688,504	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **957** 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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AZ ELECTRONIC MATERIALS USA CORP.
ATTENTION: INDUSTRIAL PROPERTY DEPT.
70 MEISTER AVENUE
SOMERVILLE NJ 08876

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MAR 0 7 2006

OFFICE OF PETITIONS

In re Application of	:DECISIONS ON PETITIONS
Harada	:UNDER 37 CFR §1.78(a)(3)
Application No. 10/688,541	:
Filed: October 17, 2003	:
Attorney Docket No. 2001JP309	:

This is a decision on the petition under 37 CFR §1.78(a)(3) filed on May 4, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 and 365 (c) for the benefit of prior- filed PCT application no. PCT/JPO2/03760 filed April 16, 2002.

The petition is **Dismissed**.

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

A petition for acceptance of a claim for late priority under 37 CFR §§1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. 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.

Petitioner has failed to provide item (1) in the appropriate manner as outlined in 37 CFR 1.121. The reference to the above-noted, prior- filed nonprovisonal application was not included in the manner specified in 37 CFR 1.78(a)(2) (i.e. in an ADS or in an amendment to the first sentence

following the title of the specification). The reference to the prior filed nonprovisional application was supplied in the petition rather than in an amendment within the meaning of 37 CFR 1.121, which requires each section of an amendment document (eg specification amendments, claim amendments, drawings amendments and Remarks) must begin on a separate sheet.

As to item (3), petitioner has failed to provide 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.

Accordingly, before the petition under 37 CFR 1.78 (a)(3) can be granted an appropriate reference within the meaning of 35 USC 120 and 37 CFR 1.78 (a)(2) must be submitted.

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

Any inquiries concerning this decision may be directed to Charlema R. Grant at (571) 272-3215.

Frances Hicks
Petitions Examiner
Office of Petition

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MAR 15 2006

53

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AZ ELECTRONIC MATERIALS USA CORP.
ATTENTION: INDUSTRIAL PROPERTY DEPT.
70 MEISTER AVENUE
SOMERVILLE NJ 08876

COPY MAILED
MAR 07 2006
OFFICE OF PETITIONS

In re Application of
Harada
Application No. 10/688,541
Filed: October 17, 2003
Attorney Docket No. 2001JP309

:DECISIONS ON PETITIONS
:UNDER 37 CFR §1.78(a)(3)

This is a decision on the petition under 37 CFR §1.78(a)(3) filed on May 4, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 and 365 (c) for the benefit of prior- filed PCT application no. PCT/JP02/03760 filed April 16, 2002.

The petition is **Dismissed**.

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

A petition for acceptance of a claim for late priority under 37 CFR §§1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. 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.

Petitioner has failed to provide item (1) in the appropriate manner as outlined in 37 CFR 1.121. The reference to the above-noted, prior- filed nonprovisonal application was not included in the manner specified in 37 CFR 1.78(a)(2) (i.e. in an ADS or in an amendment to the first sentence

following the title of the specification). The reference to the prior filed nonprovisional application was supplied in the petition rather than in an amendment within the meaning of 37 CFR 1.121, which requires each section of an amendment document (eg specification amendments, claim amendments, drawings amendments and Remarks) must begin on a separate sheet.

As to item (3), petitioner has failed to provide 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.

Accordingly, before the petition under 37 CFR 1.78 (a)(3) can be granted an appropriate reference within the meaning of 35 USC 120 and 37 CFR 1.78 (a)(2) must be submitted.

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

Any inquiries concerning this decision may be directed to Charlema R. Grant at (571) 272-3215.

Frances Hicks
Petitions Examiner
Office of Petition

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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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ATTENTION: INDUSTRIAL PROPERTY DEPT.
70 MEISTER AVENUE
SOMERVILLE NJ 08876

COPY MAILED

AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of :
Takamasa Harada :
Application No. 10/688,541 : DECISION ON PETITION
Filed: October 17, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001JP309 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed March 15, 2006 to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/JPO2/03760, filed April 16, 2002, set forth in the amendment submitted concurrently with the instant petition.

The petition is **GRANTED.**

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

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

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 365(c) 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 the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and

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

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

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 2872 for appropriate action on the amendment filed March 15, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

/Frances Hicks/

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/688,541	10/17/2003	2872	770	2001JP309	4	15	1

CONFIRMATION NO. 1153
CORRECTED FILING RECEIPT
OC000000020163932
OC000000020163932

26289
AZ ELECTRONIC MATERIALS USA CORP.
ATTENTION: INDUSTRIAL PROPERTY DEPT.
70 MEISTER AVENUE
SOMERVILLE, NJ 08876

Date Mailed: 08/24/2006

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)

Takamasa Harada, Tokyo, JAPAN;

Power of Attorney: The patent practitioners associated with Customer Number **26289**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/JP02/03760 04/16/2002

Foreign Applications

JAPAN 2001-123389 04/20/2001
If Required, Foreign Filing License Granted: 01/24/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/688,541

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Optical film having controlled scattering/transmitting characteristics

Preliminary Class

359

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

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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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HOFFMAN WARNICK LLC
75 STATE ST
14TH FLOOR
ALBANY, NY 12207

Mail Date: 04/20/2010

Applicant	: Susan B. Cirulli	: DECISION ON REQUEST FOR
Patent Number	: 7593865	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/688,567	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1036** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

ZEIDMAN TECHNOLOGIES INC
15565 SWISS CREEK LANE
CUPERTINO CA 95014

MAILED

JAN 27 2010

OFFICE OF PETITIONS

In re Application of :
Robert M. Zeidman :
Application No. 10/688,573 : ON PETITION
Filed: October 20, 2003 :
Attorney Docket No. ZEIF-01 :

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed October 16, 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 February 19, 2009, which set a shortened statutory period for reply of three months. Applicant filed an Amendment on March 23, 2009. However, in an Advisory Action mailed on August 19, 2009, the Examiner informed Applicant that the Amendment would not be entered because it failed to place the application in condition for allowance. No further reply with an extension of time having been received, the application became abandoned on May 20, 2009. The Office mailed a Notice of Abandonment on September 30, 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 an RCE.

The application is being forwarded to Group Art Unit 2192 for consideration of the RCE, filed October 16, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/15/06

TO SPE OF : ART UNIT 2132

SUBJECT : Request for Certificate of Correction on Patent No.: 7113599B2

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

All changes approved - 312 AMDT should have been entered

/Gilberto Barron Jr/ — SPE

2432 — Art Unit

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/688,579	10/17/2003	3676	502	GTDV120953	5	33	3

CONFIRMATION NO. 2274

CORRECTED FILING RECEIPT

OC000000012019170

26389
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Date Mailed: 03/04/2004

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

Applicant(s)

Alan K. Forsythe, Kent, WA;

Assignment For Published Patent Application

GT Development Corporation;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/29/2004

Projected Publication Date: 04/21/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Knob attachment assembly

Preliminary Class

016

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
10/688,580	10/17/2003	3744	770	F3320(C)	1	7	1

CONFIRMATION NO. 2260

CORRECTED FILING RECEIPT

OC000000012076432

00201
UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER, NJ 07020

Date Mailed: 03/11/2004

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)

Wilhelmus Adrianus Theodorus Uijen, Col Santa Ma Insurgentes, MEXICO;

Assignment For Published Patent Application

Good Humor-Breyers Ice Cream,Division of Conopco, Inc.;

Domestic Priority data as claimed by applicant

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 02257199.6 10/17/2002

If Required, Foreign Filing License Granted: 01/30/2004

Projected Publication Date: 06/17/2004

Non-Publication Request: No

Early Publication Request: No

Title

Refrigeration apparatus

Preliminary Class
062

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

GRANTED

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NOT GRANTED

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MAR 21 2006

OFFICE OF PETITIONS

In re Application of :
Rajesh Kumar et al. :
Application No. 10/688,582 : DECISION ON PETITION UNDER
Patent No. 6,962,963 : 37 C.F.R. §1.28(C)
Filed: October 17, 2003 :
Issued: November 8, 2005 :
Attorney Docket Number: 08688-056001 / UML 02-16, :
Title: ENZYMATIC SYNTHESIS OF POLYMERS :

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

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

Your fee deficiency submission under 37 CFR §1.28 is hereby accepted. The petition is **GRANTED** accordingly.

This file is being forwarded to Files Repository.

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

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

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Commissioner for Patents
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Raymond Sun
12420 Woodhall Way
Tustin CA 92782

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JAN 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Zheng :
Application No. 10/688,598 : ON PETITION
Filed: October 17, 2003 :
Attorney Docket No. PAT-1357-CON :

This is a decision on petition to withdraw the holding of abandonment under 37 CFR 1.181(no fee),filed March 5, 2007.

The Notice of Abandonment mailed February 20, 2007 indicates that the instant application was held abandoned for failure to file a proper reply to an Office letter mailed July 24, 2006.

A review of the record reveals that a non-final Office action was mailed on July 24, 2006. A reply in the form of an amendment was submitted on October 26, 2006 (certificate of mailing October 23, 2006). An advisory action in response to the non-final Office action was mailed November 17, 2006.[1]

Accordingly, there was no Office action within the meaning of 35 USC 132 to which applicant failed to timely reply.

In view of the above, 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**.

[1]It is noted that petitioner submitted a reply to the advisory action. A review of the record shows that this response has not been located. Petitioner has provided a copy of the response which contains a certificate of mailing date of November 22, 2006, pursuant to 37 CFR 1.8.

The application file is being referred to Art Unit 3636 for appropriate action in the normal course of business on the amendment submitted October 26, 2006.

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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IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH CA 92660

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Rudell et al.	:	
Application No. 10/688,636	:	ON PETITION
Filed: October 16, 2003	:	
Attorney Docket No. 155660-0224(P082X)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 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 RCE (with requisite fee) 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 3700 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) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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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
10/688,659	10/17/2003	2838	2072	XANI121851	12	78	6

CONFIRMATION NO. 1216

CORRECTED FILING RECEIPT

26389
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

OC000000012119094

Date Mailed: 03/18/2004

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

Applicant(s)

Robert Baumgartner, Mission, CANADA;

Assignment For Published Patent Application

Xantrex International;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/28/2004

Projected Publication Date: 04/21/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for charging batteries in a system of batteries

Preliminary Class

320

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

GRANTED

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

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

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

NOT GRANTED

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

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OFFICE OF THE DIRECTOR
TC 3600

LAW OFFICES OF JOHN D. GUGLIOTTA, PE, ESQ.
202 Delaware Building
137 South Main Street
Akron OH 44308

In re application of
Steven Tsengas
Application No. 10/688,672
Filed: October 20, 2003
For: FOOD DISPENSER

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

This is a decision on the petition submitted on October 20, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

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

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

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

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

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

SNM/pav: 5/22/04

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MARSHALL GERSTEIN & BORUN
6300 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6357

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MAY 2 0 2004

OFFICE OF PETITIONS

In re Application of:
Koo et al.
Application No. 10/688,680
Filed: October 17, 2003
Title of Invention: A METHOD AND DEVICE FOR DETECTING A SMALL NUMBER OF MOLECULES USING SURFACE-ENHANCED COHERENT ANTI-STOKES RAMAN SPECTROSCOPY

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to a Petition Under 37 CFR 1.47(a), filed April 2, 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, Christopher M. Gerth, 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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CHRISTOPHER M. GERTH
3440 EL CAMINO REAL, #10
SANTA CLARA, CA 95051

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OFFICE OF PETITIONS

In re Application of: :
Koo et al. :
Application No. 10/688,680 :
Filed: October 17, 2003 :
Title of Invention: A METHOD AND :
DEVICE FOR DETECTING A SMALL :
NUMBER OF MOLECULES USING :
SURFACE-ENHANCED COHERENT :
ANTI-STOKES RAMAN SPECTROSCOPY :

LETTER

Dear Mr. Gerth:

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: MARSHALL GERSTEIN & BORUN
6300 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6357

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YAKIMA WA 98902

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OFFICE OF PETITIONS

In re Application of :
Shamay Izhar :
Application No. 10/688,683 : DECISION ON PETITION
Filed: 17 October, 2003 :
Attorney Docket No. NA6.P01 :

This is a decision on the petition filed on 9 August, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 30 December, 2004, for failure to timely reply to the non-final Office action mailed on 29 September, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 23 August, 2005.

---

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

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

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

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

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

Petitioner has submitted an amendment with the present petition.

This application is being referred to Technology Center Art Unit 1661 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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OFFICE OF PETITIONS

MERCK AND CO., INC
P.O. BOX 2000
RAHWAY, NJ 07065-0907

In re Patent No. 7,125,855 :
Issue Date: October 24, 2006 :
Application No. 10/688,691 : DECISION ON PETITION
Filed: October 17, 2003 :
Patentee(s): Balkrishen Bhat, et. al. :

This is a decision on the request under 37 CFR 1.183, filed on November 13, 2006, which is being treated as a request under 37 CFR 3.81(b),[1] to add the co-assignee's name on the front page of the above-identified patent by way of a certificate of correction.

The petition is **GRANTED**.

A Certificate of Correction in the names of **"Merck & Co., Inc., Rahway, NJ"**, and **"Isis Pharmaceuticals, Inc., Carlsbad, CA"** will be issued, in accordance with the assignments recorded in the USPTO, prior to issuance, at reel 014753/frame 0161 and reel 014753/frame 0192.

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.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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

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P O Box 902
El Segundo CA 90245

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OFFICE OF PETITIONS

In re Patent No. 7,084,010 :
Issue Date: August 1, 2006 :
Application No. 10/688,708 : ON PETITION
Filed: October 17, 2003 :
Attorney Docket No. 02W155 :

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

The petition is **DISMISSED** as moot.

In reply to the Notice of Allowance and Issue Fee(s) Due mailed March 17, 2006, the issue fee was duly paid on June 13, 2006.

On August 1, 2006, U.S. Patent No. 7,084,010 issued on the instant application.

The instant petition was filed June 22, 2009.

Petitioner states that the above-identified application may have become abandoned pursuant to 35 U.S.C. 12 2(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. Accordingly, petitioner requests that, the patentee's failure to timely file a Rescission of Previous Nonpublication Request (35 U.S.C. 122(b)(2)(B)(ii)) and, if applicable, Notice of Foreign Filing (35 U.S.C. 122(b)(2)(B)(iii)) be corrected and the Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f)) be retroactively accepted.

As set forth in MPEP 1305:

> Once the patent has been granted, the U.S. Patent and Trademark Office can take no action concerning it, except as provided in 35 U.S.C. 135, 35 U.S.C. 251 through 256, 35 U.S.C. 302 through 307 and 35 U.S.C. 311 through 316.

Accordingly, once the patent is granted, the Office has no jurisdiction over the patent. Also, see *Aristocrat Technologies Australia v. International Game Technologies* 2008 U.S. App. LEXIS 20060 (Fed. Cir. 2008) "[p]rocedural lapses during examination, should they occur, do not provide grounds of invalidity. Absent proof of inequitable conduct, the examiner's or the applicant's absolute compliance with the internal rules of patent examination becomes irrelevant after the patent has issued." The case was decided September 22, 2008.

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

By Mail:
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Post Office Box 1450
Alexandria, VA 22313-1450

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

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

Telephone inquiries should be directed to the undersigned at 571-272-7099.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Keith A. Rutherford
20333 SH 249, STE. 600
Houston, TX 77070

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Raytheon Company
Intellectual Property & Licensing, EO/E04/N119
2000 East El Segundo Boulevard
P O Box 902
El Segundo CA 90245

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OFFICE OF PETITIONS

In re Patent No. 7,084,010
Issue Date: August 1, 2006
Application No. 10/688,708
Filed: October 17, 2003
Attorney Docket No. 02W155

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition, filed October 13, 2009, 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 October 16, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

Application No. 10/688,708

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 Tammara Peyton at (571) 272-6052 or in his absence to the undersigned at (571) 272-3217.

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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DR. RICHARD M. KREAM
C/O CHIMERACOM, LLC
23RD FLOOR
WALL STREET PLAZA
NEW YORK NY 10005-1875

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MAR 2 0 2007

OFFICE OF PETITIONS

In re Application of :
Richard M. Kream :
Application No. 10/688,741 : ON PETITION
Filed: October 17, 2003 :
Attorney Docket No. None :

This is a decision on the petition under 37 CFR 1.137(b), filed November 4, 2006, to revive the above-identified application.

The petition is **DISMISSED.**

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

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 20, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 5, 2006.

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

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

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

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/688,741	**Applicant(s)** KREAM, RICHARD M.
	Examiner Robert Landsman, Ph.D.	**Art Unit** 1647

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): see complete discussion of issues below (Box 13).
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

Robert Landsman, Ph.D.
Primary Examiner
Art Unit: 1647

Continuation of 13. Other:

1. Specification
A. The objection to the specification has been withdrawn in view of Applicants' amendment to the priority data in the first paragraph.

B. The specification remains objected to for introducing new matter as discussed on page 2 of the Office Action mailed 7/11/06.

C. Claim 1 is objected to since the second line recites "a chemically combination."

2. Claim Rejections - 35 USC § 112, first paragraph - scope of enablement
A. The rejection of claim 1 under 35 USC 112, first paragraph, has been withdrawn in view of the fact that, regardless of the definition of "a peptide moiety" and "a cyclic alkaloid moiety," the claimed compounds still must be a Substance P peptide or morphine. Since the Examiner could not determine exactly where in his arguments or specification Applicant defined these terms, the Examiner is interpreting "a peptide moiety" as a specific known region of a known SP peptide which acts a the binding region for known SP peptides. Similarly, the "cyclic alkaloid moiety" is interpreted as the known cyclic carbon ring of morphine. Therefore, this term does not encompass "derivatives" or "variants" of SP or morphine, only SP and morphine, themselves.

3. Claim Rejections - 35 USC § 112, first paragraph - written description
A. The rejection of claim 1 under 35 USC 112, first paragraph, is withdrawn for the reasons present above for scope of enablement.

4. Claim Rejections - 35 USC § 112, second paragraph
A. The rejection of claim 1 under 35 USC 112, second paragraph, has been withdrawn in view of the fact that the term "compact hinge" thought broad, is not indefinite, especially in light of the numerous examples of hinges/linkers provided.

B. The rejection of claim 1 under 35 USC 112, second paragraph, has been withdrawn in view of the fact that, regardless of the "chemical modification" the compound still must be either SP or morphine. Therefore, the term is not indefinite.

C. The rejection of claim 1 under 35 USC 112, second paragraph, has been withdrawn since the claim is drawn to inhibiting opioid tolerance.

D. The rejection of claim 1 under 35 USC 112, second paragraph, has been withdrawn in view of the Examiner's interpretation that the "cyclic alkaloid moiety" of morphine refers to the cyclic carbon ring of the compound.

5. Double Patenting
A. The rejection of claim 1 as not being patentably distinct over claims in US Patent 6,881,829 has been withdrawn in view of the fact that the claims of the patent and present application were restricted in the parent case.

B. The rejection of claim 1 as not being patentably distinct over US Patent 6,759,520 has been withdrawn in view of the fact that the patent is drawn to opioid peptides, whereas the present invention is drawn to non-peptide opioids.

6. Claim Rejections - 35 USC § 102
A. The rejection of claim 1 under 35 USC 102(e) as being anticipated by US Patent 6,759,520 has been withdrawn in view of the fact that the patent is drawn to opioid peptides, whereas the present invention is drawn to non-peptide opioids.

B. The rejection of claim 1 under 35 USC 102(f) regarding US Patent 6,759,520 has been withdrawn in view of Applicant's arguments.

7. Claim Rejections - 35 USC § 103
A. Claim 1 remains rejected under 35 USC 103 as being unpatentable over Wainer in view of Foran. Applicant argues that the BSA linker is not able to cross the BBB. However, there is no requirement that the compounds of the present invention need to cross the BBB and can act peripherally.

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OCT 27 2009

OFFICE OF PETITIONS

MEDICINELODGE INC.
124 SOUTH 600 WEST
LOGAN UT 84321

In re Application of :
Sinnott et al :
Application No. 10/688,746 : DECISION ON PETITION
Filed: October 17, 2003 :
Attorney Docket No. 13447.6.1 :

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 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 August 18, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3734 for appropriate action by the Examiner in the normal course of business on the reply received March 12, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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840 NORTH PLANKINTON AVENUE
MILWAUKEE, WI 53203

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OFFICE OF PETITIONS

In re Application of :
Robert V. **HEY et al** :
Application No. 10/688,772 :
Filed: October 18, 2003 :
Attorney Docket No. 1327.003 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 2, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 3, 2007.

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

An extension of time fee 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 three-month extension of time submitted with the petition on October 11, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account No. 50-1170.

The file does not indicate a proper change of address has been submitted, although the address given on the petition differs from the address of record. The change of address filed November 1, 2007 cannot be accepted since it is not in compliance with 37 CFR 1.33(a) 2. Specifically, the change of address requested requires the signature of both inventors. If appropriate, a change of address should be filed in accordance with MPEP 601.03. Finally, a review of the file indicates that two different correspondence addresses have been filed, both dated November 1, 2007. A courtesy copy of this decision is being mailed to the address given in the petition; however, the Office will mail all future correspondence solely to the address of record, associated with Customer Number 23598.

This application is being referred to Technology Center Art Unit 3633.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: Andrew S. McConnell
BOYLE, FREDRICKSON, NEWHOLM, STEIN & GRATZ, S.C.
250 East Wisconsin Avenue, Suite 1030
Milwaukee, Wisconsin 53202

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PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

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AUG 20 2008

In re Application of	:	
Lubart et al.	:	
Application No. 10/688,785	:	ON PETITION
Filed: October 17, 2003	:	
Attorney Docket No. 132663.00301	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 24, 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 Corrected Drawings, (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

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PO BOX 14329
RESEARCH TRIANGLE PARK NC 27709

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JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Bernard E. Cabana et al. :
Application No. 10/668,792 : ON PETITION
Filed: September 23, 2003 :
Attorney Docket No. 4354-110 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 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 and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is December 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 $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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 1614 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.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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PATTERSON & SHERIDAN, LLP
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HOUSTON TX 77056

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OFFICE OF PETITIONS

In re Application of	:	
SINGH, et al.	:	
Application No. 10/688,797	:	DECISION GRANTING PETITION
Filed: October 17, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. AMAT/7729/TCG/EPI/RKK	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 3, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 2, 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 1722 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

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

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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SEP 19 2008

In re Application of	:	
Singh et al.	:	
Application Number: 10/688797	:	
Filing Date: 10/17/2003	:	ON PETITION
Attorney Docket Number: 016301-078410US	:	

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

The petition is **GRANTED**.

This application became abandoned on May 22, 2008, for failure to timely submit the issue fee as required by the Notice of Allowance and Fee(s) Due mailed on February 21, 2008, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on August 4, 2008.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was

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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 Director may required additional information where there is a question whether the delay was unintentional; and

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

unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

Receipt of the issue fee filed with the subject petition is acknowledged.

The application is referred to the Office of Data Management for processing into a patent.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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APR 2 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Singh et al.	:	DECISION ON APPLICATION
Application No.: 10/688,797	:	UNDER 37 CFR 1.705(b)
Filed: 10/17/2003	:	
Attorney Docket No.	:	
016301-78410US	:	

This is a decision on the "PETITION UNDER 37 CFR § 1.705(b) APPLICATION FOR PATENT TERM ADJUSTMENT (PTA) UNDER 37 C.F.R. § 1.705" filed on April 30, 2008. Applicants request that the Patent Term Adjustment for the above-identified patent be increased from 269 days to 315 days.

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

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 ONE HUNDRED THIRTY-NINE (139) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 21, 2008, 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 269 days. The period of adjustment was 350 days of PTO delay and 81 days of applicant delay.

The subject application for patent term adjustment was timely filed on April 30, 2008.[1]

Applicants state that the subject application is not subject to a terminal disclaimer.

Applicants contend that the patent term adjustment should be increased to 315 days as a result of Office delay in issuance of a notice of allowance after the termination, on September 6, 2007, of the suspension of action under 37 CFR 1.103 requested on March 19, 2007.

On March 19, 2007, a request for continued examination (RCE) and a request for suspension of action under 37 CFR 1.103 were filed. On June 8, 2007, an Office communication granting the request for suspension of action was mailed stating that pursuant to applicant's request, action by the Office is suspended on the application for three (3) months under 37 CFR 1.103(a). On September 6, 2007, applicants filed a letter requesting termination of the suspension of action. On February 21, 2008, a notice of allowance was mailed.

37 CFR 1.703(a)(2) states that the period of adjustment under § 1.702(a) is the sum of the following periods: The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

37 CFR 1.704(c)(1) 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:

---

[1] The issue fee was previously paid on August 2, 2006, in response to the Notice of Allowance mailed on June 27, 2006. A Request for Continued Examination (RCE) was filed on November 3, 2006, accompanied by a petition to withdraw the application from issue. A Notice of Allowance was again mailed on February 20, 2007, and an RCE was filed in response on March 19, 2007. The application for patent term adjustment was filed in response to a third Notice of Allowance mailed on February 21, 2008 and prior to the resubmission of the issue fee on July 31, 2008. Further, the applicant on application for patent term adjustment alleges Office delay in responding to their paper filed on September 6, 2007, and does not dispute any calculations prior to that time. Thus applicant timely argues that the Notice of Allowance mailed on February 21, 2008, and no prior Notice of Allowance, should include an additional adjustment for Office delay.

Suspension of action under § 1.103 at the applicant's request, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date a request for suspension of action under § 1.103 was filed and ending on the date of the termination of the suspension;

MPEP 709 states, in pertinent part, that the request for termination of a suspension of action will be effective when an appropriate official of the Office takes action thereon. If the request for termination properly identifies the application and the period of suspension has not expired when the Office acts on the request, the Office will terminate the suspension and place the application on the examiner's docket.

On March 19, 2007, a request for suspension of action under 37 CFR 1.103(c) was filed. On June 8, 2007, the request for suspension of action was granted for a period of three (3) months. Thus, the period of reduction of patent term adjustment runs from March 19, 2007, the date the request for suspension of action was filed, to September 8, 2007, the date the suspension was terminated, or 174 days.[2] The patent term adjustment is thereby reduced by one hundred seventy-four (174) days pursuant to 37 CFR 1.704(c)(1).

On September 8, 2007, the suspension was terminated. On February 21, 2008, four (4) months and 44 days after the day after the date the suspension was terminated, a notice of allowance was mailed. Accordingly, the patent term adjustment is thereby increased by forty-four (44) days for Office delay in failure to mail an Office action or notice of allowance within four (4) months of the date of termination of the suspension.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is ONE HUNDRED THIRTY-NINE (139) days (394 (350+44) days of PTO delay, reduced by 255 (81+174) days of Applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been received. This fee is required and will not be waived.

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[2]As the Office did not act on the request for termination of suspension of action filed on September 6, 2007, the suspension is considered terminated as of three (3) months after the date of mailing of the letter mailed on June 8, 2007, granting the request for suspension of action for a period of three (3) months.

The Office of Data Management has been advised of this decision. The application is thereby 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 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.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl: Revised PAIR Calculation

Day : Monday
Date: 4/27/2009

PALM INTRANET

Time: 18:28:51

PTA Calculations for Application: 10/688797			
Application Filing Date:	10/17/2003	PTO Delay (PTO):	350
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	81
Post-Issue Petitions:	0	Total PTA (days):	139
PTO Delay Adjustment:	-130		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
101	04/27/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		174	
100	04/27/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	44		
86	02/21/2008	MAIL NOTICE OF ALLOWANCE			
85	02/04/2008	ISSUE REVISION COMPLETED			
84	02/04/2008	DOCUMENT VERIFICATION			
83	02/04/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
82	02/04/2008	NOTICE OF ALLOWABILITY			
76	09/06/2007	MISCELLANEOUS INCOMING LETTER			
75	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
74	06/08/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
73	06/07/2007	MISCELLANEOUS ACTION WITH SSP			
72	03/28/2007	DATE FORWARDED TO EXAMINER			
71	03/18/2007	RCE- AF PROCESSED			
70	03/28/2007	DATE FORWARDED TO EXAMINER			
69	03/18/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
68	03/28/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
67	03/19/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
66	02/23/2007	EXPORT TO INITIAL DATA CAPTURE			
65	02/22/2007	CORRESPONDENCE ADDRESS CHANGE			
64	02/22/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
63	02/20/2007	MAIL NOTICE OF ALLOWANCE			
62	01/26/2007	ISSUE REVISION COMPLETED			

61	01/26/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
60	01/22/2007	NOTICE OF ALLOWABILITY			
59	11/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
58	12/05/2006	FINISHED INITIAL DATA CAPTURE			
57.7	11/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	11/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	11/14/2006	DATE FORWARDED TO EXAMINER			
55	11/03/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
54	11/14/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
50	11/09/2006	WORKFLOW - QUERY REQUEST - FINISH			
49	11/09/2006	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
48	11/03/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
47	10/30/2006	TC RETURN TO PUBS			
46	11/03/2006	PETITION ENTERED			
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5	01/29/2004	CLEARED BY L&R (LARS)			
4	01/13/2004	CASE CLASSIFIED BY OIPE			
3	01/13/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	12/17/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/17/2003	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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P.O. BOX 2938
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of :
Matthew S. Solar, et al. :
Application No. 10/688,801 : DECISION ON PETITION
Filed: October 17, 2003 : TO WITHDRAW
Attorney Docket No. 723.077US1 : 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 12, 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 P. Horvath on behalf of all attorneys of record who are associated with customer No. 21186.

All attorneys/agents associated with the Customer Number 21186 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee

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

There is an outstanding Office action mailed October 9, 2007 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MATTHEW S. SOLAR
290 NORMANDY DRIVE
INDIALANTIC, FL 32903

cc: RICHARD W. WARNER
HARNESS, DICKEY & PIERCE, PLC
5445 CORPORATE DRIVE
TROY, MI 48098

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Matthew S. Solar	: DECISION ON REQUEST FOR
Patent Number	: 7643867	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/688,801	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1039** 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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

In re Application of

Raja Tuli

Application No. 10/688,813

Filed: October 20, 2003

Attorney Docket No. 5965P022

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action mailed September 1, 2006, which set a shortened statutory period for reply of three (3) months. A response was not received within the allowable period, and the application became abandoned on December 2, 2006. A Notice of Abandonment was mailed on March 22, 2007.

Examiner Restifo has determined that the amendment filed September 11, 2007, places the application in condition for allowance.

The application is being forwarded to Technology Center 3600, GAU 3618 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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TYCO FIRE & SECURITY SERVICES
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BOCA RATON FL 33486

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OFFICE OF PETITIONS

In re Application of :
Steven V. Leone :
Application No. 10/688,822 : DECISION ON PETIITON
Filed: October 17, 2003 : UNDER 37 C.F.R. §1.137(b)
Attorney Docket No. C4-1099 :
Title: ELECTRONIC ARTICLE :
SURVEILLANCE MARKER DEACTIVATOR :
USING PHASE CONTROL :
DEACTIVATION :

This is a decision on the petition filed January 23, 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 Ex Parte Quayle Office action, mailed March 11, 2005, which set a shortened statutory period for reply of two (2) 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 May 12, 2005. A notice of abandonment was mailed on January 20, 2006.

---

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

As such, this petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be made aware of this decision.

Petitioner has also submitted a three-month extension of time. 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[2]. Accordingly, since the $1590 extension of time submitted with the petition on January 23, 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 in the petition.

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 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **1/09/09**

TO SPE OF : ART UNIT **2853 (2800)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/688,833** Patent No.: **7,190,658**

Attn: Michael Marcheschi

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: _____

J.A. LORENGO
SUPERVISORY PATENT EXAMINER

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7/11/08

Patent No. :7359750
Ser. No. :10/688834
Inventor(s) :Chul Gyu Song et al.
Issued : 4/15/08
Title : APPARATUS AND METHOD FOR ANALYZING MOTIONS USING BIO-IMPEDANCE
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 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.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

HR

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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Andreas Roessler	: DECISION ON REQUEST FOR
Patent Number	: 7571391	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/688,856	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1156** 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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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

In re Patent No. 6,961,623	:	
Issue Date: November 1, 2005	:	
Application No. 10/688,865	:	NOTICE
Filed: October 17, 2003	:	
Attorney Docket No.: MCKY121862	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. The delay in responding is regretted, but the communication was recently referred to the undersigned for consideration.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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FOLEY & LARDNER
Suite 500
3000 K Street NW
Washington DC 20007

AUG 12 2005

In re Application of:
Haruki Toda et al.
Serial No.: 10/688,881
Filed: October 21, 2003
Attorney Docket No.: 016907-1576

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment filed on April 12, 2005 under 37 C.F.R. § 1.181(a). There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper reply to the Office action (a restriction) mailed on August 4, 2004. A Notice of Abandonment was mailed on April 6, 2005.

Petitioner asserts that a response to the Office action of August 4, 2004 was timely filed in the United States Patent and Trademark Office (USPTO). To support this assertion, petitioner has submitted a copy of the response (an election) and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the response by the USPTO on September 7, 2004. September 4, 2004 was a Saturday and September 6, 2004 was a Federal holiday so a response filed on September 7, 2004 would have been timely under the provisions of 37 C.F.R. § 1.7 had it been received.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the USPTO on September 7, 2004 is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that a postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. Accordingly, it is concluded that the response was timely received but lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed April 6, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the response submitted with the petition on April 12, 2005 is accepted since the response originally submitted was apparently lost.

The response will be processed by the Technology Center 2800 support staff and the examiner will prepare an Office action based upon the response.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

James Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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3000 K STREET NW
WASHINGTON, DC 20007

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OFFICE OF PETITIONS

In re Application of	:	
Toda et al.	:	
Application No. 10/688,881	:	DECISION ON APPLICATION
Filed: October 21, 2003	:	FOR
Atty Docket No. 016907-1576	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed December 8, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to two hundred forty-eight (248) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred forty-eight (248) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 12, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On December 8, 2005, applicants timely submitted an application for patent term adjustment (with required fee)[1]. Applicants assert entitlement

[1] PALM records indicate that the Issue Fee payment was also received on December 8, 2005.

to a period of adjustment of 248 days for Office delay in taking action in response to their response filed September 7, 2004.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history reveals that no response to the Office action mailed August 4, 2004 was considered timely filed by the Office and the application became abandoned. Applicants were advised of the abandonment by notice mailed April 6, 2005. In response, on April 12, 2005, applicants filed a petition to withdraw the holding of abandonment. It is specifically noted that the petition to withdraw the holding of abandonment was filed within two months from the mailing date of a notice of abandonment. See § 1.704(c)(4). Moreover, by decision mailed August 12, 2005, the petition was granted on the basis that applicants had shown that a proper response was filed on September 7, 2004 (the first business day after the weekend and a federal holiday).

In view thereof, it is concluded that applicants did not fail to engage in reasonable efforts to conclude processing or examination of the application by delaying in replying to the Office action. Moreover, applicants are correct that given the showing of receipt of applicants' response in the Office on September 7, 2004, the application is entitled to a period of adjustment for Office delay. The Office did not take action in response until September 12, 2005. Pursuant to § 1.702(a)(2) and § 1.703(a)(2), the period of adjustment is 248 days, counting the number of days in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed, January 8, 2005 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, September 12, 2005.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is two hundred forty-eight (248) days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to petitioner's Deposit Account, as authorized. (No fee by check was enclosed with petition). No additional fees are required.

The application is being forwarded to the Office of Patent Publication so that a patent can be issued. The Issued Patent

will include any period of adjustment accrued for Office failure to issue the patent within four months of the date of payment of the issue fee and satisfaction of all outstanding requirements.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

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Wendroth, Lind & Ponack, L.L.P.
2033 K Street N.W.
Suite 800
Washington, DC 20006-1021

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NOV 17 2004

TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
Toshiki Sakabayashi : **TO MAKE SPECIAL**
Application No. 10/688,908 : **(ACCELERATED**
Filed: December 16, 2003 : **EXAMINATION)**
For: SHOESTRING TYING APPARATUS

This is in response to the petition filed on December 16, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination, as set forth in MPEP § 708.02, VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02, VIII have been met, the petition is **GRANTED**.

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/rwg: 10/20/04

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

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JUL 10 2007

OFFICE OF PETITIONS

In re Application of
Woo Hyun Kim et al.
Application No. 10/688,920
Filed: October 21, 2003
Attorney Docket No.: **041501-5458-01**

ON PETITION

This is a decision on the petition filed February 12, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed August 10, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested prior to abandonment, this application became abandoned November 14, 2005. Accordingly, a Notice of Abandonment was mailed March 10, 2006.

A review of the record reveals that a three month extension of time was filed with the instant petition, however, 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 $1020.00 extension of time fee submitted with the petition on February 12, 2007, was subsequent to the maximum period obtainable for reply; this fee is unnecessary and will be credited to counsel's deposit account no. 50-0911.

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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)).

This matter is being referred to Technology Center 2871 for appropriate action on the amendment filed February 22, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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MAR 24 2006

OFFICE OF PETITIONS

In re Patent No. 6,924,805	:	
Issued: August 2, 2005	:	
Application No. 10/688,936	:	ON PETITION
Filed: October 21, 2003	:	
Attorney Docket No. 1292 (1452.3940000)	:	

This is a decision on the petition under 37 CFR 1.182, filed October 19, 2005, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to Petitions Examiner Liana Chase at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Kimberly Terrell at (703) 308-9250.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Kimberly Terrell, P/OPPD, South Tower 8C41 (FAX 703-746-4658)

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LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of
Cottard et al.
Application No. 10/688,958
Filed: October 21, 2003
For: OXIDATION DYEING COMPOSITION FOR KERATIN FIBERS COMPRISING A CATIONIC POLY(VINYLLACTAM) AND AT LEAST ONE OXIDATION DYE IN THE FORM OF A SULPHATE ION
Attorney Docket No: 06028.0029-00000
Pub. No.: US 2004/0133993 A1
Pub. Date: July 15, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on September 15, 2004, for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for errors made by the Office.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The errors in the chemical formula, which are labelled #1 and # 4 will be corrected as requested.

The instant request also includes a mistake that is not the fault of the Office, which will not be corrected by a corrected publication by the Office.

The alleged errors with respect to the text of paragraphs [0123] and [0124], which are labeled as #2 will not corrected as requested, as the application was published as filed.

The alleged error with respect to not pulishsing the text of page 50, which is labeled #3 will not be corrected as requested, as page 50 is missing from the application papers as filed.

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[1]Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct 10, 2000) (final rule).

Applicant may file a petition with evidence that page 50 was received by the Office on the filing date of the application. Applicant is given a one month time period to request reconsideration of this decision.

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 or after July 15, 2005, 571-273-8300

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

Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
For Patent Examination Policy

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FEB 14 2006

OFFICE OF PETITIONS

In re Application of
Cottard et al.
Application No. 10/688,958
Filed: October 21, 2003
For: OXIDATION DYEING COMPOSITION FOR KERATIN FIBERS COMPRISING A CATIONIC POLY(VINYLLACTAM) AND AT LEAST ONE OXIDATION DYE IN THE FORM OF A SULPHATE ION
Attorney Docket No: 06028.0029-00000
Pub. No.: US 2004/0133993 A1
Pub. Date: July 15, 2004

This is a decision on the petition under 37 CFR 1.181, filed on July 19, 2005, which is being treated as a petition to accord the application a filing date of October 21, 2003, including page 50 of the specification as part of the original disclosure.

The petition is granted.

In support of the petition, applicants submitted a copy of their stamped post card receipt. Applicants' stamped post card receipt acknowledges receipt in the United States Patent and Trademark Office on October 21, 2003 of inter alia, 71 pages of application including title page and abstract, and including 4 independent claims and 59 claims total. The evidence has been considered and it is persuasive that page 50 was filed on October 21, 2003.

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

Mark Polutta for EJ.

Eugenia Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
For Patent Examination Policy

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MAY 12 2006

OFFICE OF PETITIONS

In re Application of :
Andrew Sean Gordon Daly :
Application No. 10/688,988 :
Filed: October 21, 2003 :
Title of Invention: :
TENDON AND LIGAMENT SUPPORT :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unavoidably, filed April 11, 2006.

The Petition is hereby **dismissed**.

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

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed June 6, 2005. The Office communication set a one (1) month period for reply. No response having been received, the application became abandoned on June 28, 2005. A Notice of Abandonment was mailed December 29, 2005.

Applicant files the instant petition wherein Applicant avers that he did not receive the Office communication.

Applicant is advised that an allegation that an Office action was not received may form the basis for revival of an application based upon unavoidable abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received.

2. A copy of the file jacket or 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 Applicant's statement.

Accordingly, Applicant's assertion, that the Office communication was not received, is insufficient to justify granting of the petition. Applicant must also provide a copy of the docket record (or file jacket) where the non-received Office action would have been entered had it been received and docketed.

As such, the petition is dismissed.

Applicant should file a Request for Reconsideration of Petition and include the necessary copies of documents.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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AUG 28 2006

OFFICE OF PETITIONS

In re Application of :
Andrew Sean Gordon Daly :
Application No. 10/688,988 :
Filed: October 21, 2003 :
Title of Invention: :
TENDON AND LIGAMENT SUPPORT :

This is a decision in response to the Petition under 37 CFR 1.137(b), filed June 15, 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 Office Communication mailed June 6, 2005. The Office Communication set a one (1) month period for reply, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned July 7, 2005. A Notice of Abandonment was mailed December 29, 2005.

With the instant petition, Petitioner has filed a Response to the Office communication. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 3743 for processing of the Response.

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

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : June 05, 2008

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/688999 Patent No.: 7338535 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 571-270-9390

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: The examiner would like to point out that the change regarding the Patent Term Extension or Adjustment determination on the title page should be directed to the Office of Patent Legal Administration at (571-272-7702). Thanks.

SPE

1796
Art Unit

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

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WASHINGTON DC 20001-4413

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Patent No. 7,338,535	:	
PLOS et al.	:	LETTER REGARDING PATENT
Issued: March 4, 2008	:	TERM ADJUSTMENT AND
Application No. 10/688,999	:	NOTICE OF INTENT TO ISSUE
Filed: October 21, 2003	:	CERTIFICATE OF CORRECTION
Attorney Docket No. 06028.0030-00000	:	

This letter is in response to the "REQUEST FOR CERTIFICATE OF CORRECTION," filed April 18, 2008. Pursuant to patentees' duty of good faith and candor to the Office, patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment is **granted**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised patent term adjustment of **zero (0) days**.

On March 4, 2008, the above-identified application matured into U.S. Patent No. 7,338,535, with a revised patent term adjustment of 79 days. On April 18, 2008, patentees submitted the instant comment.

Patentees assert that the determination of patent term adjustment of 79 day is incorrect and should be corrected to zero (0) days. Patentees aver that the Office failed to assess

applicants any delay for the filing of the Request for Continued Examination (RCE) and the request for an extension of time within the third month on March 19, 2007.[1]

The application history has been reviewed and it has been determined that the determination of patent term adjustment under 35 U.S.C. 154(b) of 79 days is incorrect.

A final Office action was mailed on September 19, 2006. Applicants filed their response in the form of a RCE and a request for an extension of time within the third month on March 19, 2007, in excess of the three-month period from the mailing date of the final Office action. See 37 CFR 1.704(b). Thus, applicants failed to engage in reasonable efforts to conclude prosecution of this application. The period of adjustment should have been reduced by 90 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, December 20, 2006, ending on the date the reply was filed, March 19, 2007. See 37 CFR 1.704(b). Accordingly, a period of reduction of 90 days will be entered.

In view thereof, the patent should have issued with a revised patent term adjustment of **zero (0) days** (286 days of Office delay - 297 days of applicant delay).

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

This matter is being referred to the Certificate of Correction Branch for issuance of a certificate of correction to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **zero (0) days**.

---

[1] The PALM records incorrectly reflect the filing date of the RCE and the request for an extension of time for response within the third month as March 18, 2007, instead of March 19, 2007.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

Day : Friday
Date: 12/5/2008

PALM INTRANET

Time: 17:02:46

PTA Calculations for Application: 10/688999			
Application Filing Date:	10/21/2003	PTO Delay (PTO):	286
Issue Date of Patent:	03/04/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	207
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-90		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
69	12/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		90	
64.5	02/13/2008	PTA 36 MONTHS			
64	03/04/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
63	01/17/2008	EXPORT TO FINAL DATA CAPTURE			
62	01/16/2008	DISPATCH TO FDC			
61	01/16/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
60	01/09/2008	RESPONSE TO REASONS FOR ALLOWANCE			
59	01/09/2008	ISSUE FEE PAYMENT VERIFIED			
58	01/09/2008	ISSUE FEE PAYMENT RECEIVED			
57	12/04/2007	FINISHED INITIAL DATA CAPTURE			
56	10/22/2007	EXPORT TO INITIAL DATA CAPTURE			
55	10/17/2007	MAIL NOTICE OF ALLOWANCE			
54	10/11/2007	ISSUE REVISION COMPLETED			
53	10/11/2007	DOCUMENT VERIFICATION			
52	10/11/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	10/10/2007	NOTICE OF ALLOWABILITY			
50	10/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
49	09/20/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
48	09/22/2007	DATE FORWARDED TO EXAMINER			
47	09/20/2007	RESPONSE AFTER NON-FINAL ACTION		89	45
46	09/20/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	03/23/2007	MAIL NON-FINAL REJECTION			

44	03/20/2007	NON-FINAL REJECTION			
43	03/20/2007	DATE FORWARDED TO EXAMINER			
42	03/18/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
41	03/20/2007	DATE FORWARDED TO EXAMINER			
40	03/18/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
39	03/20/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
38	03/18/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	03/18/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
36	03/19/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
35	09/19/2006	MAIL FINAL REJECTION (PTOL - 326)			
34	09/16/2006	FINAL REJECTION			
33	08/21/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	08/30/2006	DATE FORWARDED TO EXAMINER			
31	08/21/2006	RESPONSE AFTER NON-FINAL ACTION		31	24
30	08/21/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	08/21/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
28	08/21/2006	REFERENCE CAPTURE ON IDS			
27.7	08/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	08/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	08/21/2006	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
25	08/21/2006	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
24	04/21/2006	MAIL NON-FINAL REJECTION			
23	04/17/2006	NON-FINAL REJECTION			
22	08/19/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	10/21/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	04/06/2006	DATE FORWARDED TO EXAMINER			
19	03/31/2006	RESPONSE TO ELECTION / RESTRICTION FILED		87	17

18	03/31/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	10/03/2005	MAIL RESTRICTION REQUIREMENT	286		-1
16	09/29/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
15.7	08/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	08/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
13	02/06/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	02/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	02/06/2004	REFERENCE CAPTURE ON IDS			
10.7	10/21/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/21/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	01/22/2004	APPLICATION IS NOW COMPLETE			
8	01/22/2004	APPLICATION RETURN FROM OIPE			
7	01/22/2004	APPLICATION RETURN TO OIPE			
6	01/21/2004	APPLICATION DISPATCHED FROM OIPE			
5	01/22/2004	APPLICATION IS NOW COMPLETE			
4	01/15/2004	CLEARED BY OIPE CSR			
3	01/15/2004	CASE CLASSIFIED BY OIPE			
2	12/17/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/21/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,338,535 B2

DATED : Mar. 4, 2008

INVENTOR(S) : Plos 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 (79) days

Delete the phrase "by 79 days" and insert – by 0 days--

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OFFICE OF PETITIONS

In re Patent No. 7,338,535	:
PLOS et al.	: LETTER REGARDING PATENT
Issued: March 4, 2008	: TERM ADJUSTMENT AND
Application No. 10/688,999	: NOTICE OF INTENT TO ISSUE
Filed: October 21, 2003	: CERTIFICATE OF CORRECTION
Attorney Docket No. 06028.0030-00000	:

This letter is in response to the "REQUEST FOR CERTIFICATE OF CORRECTION," filed April 18, 2008. Pursuant to patentees' duty of good faith and candor to the Office, patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment is **granted**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised patent term adjustment of **zero (0) days**.

On March 4, 2008, the above-identified application matured into U.S. Patent No. 7,338,535, with a revised patent term adjustment of 79 days. On April 18, 2008, patentees submitted the instant comment.

Patentees assert that the determination of patent term adjustment of 79 day is incorrect and should be corrected to zero (0) days. Patentees aver that the Office failed to assess

Copied from 10689999 on 04/07/2009

applicants any delay for the filing of the Request for Continued Examination (RCE) and the request for an extension of time within the third month on March 19, 2007.[1]

The application history has been reviewed and it has been determined that the determination of patent term adjustment under 35 U.S.C. 154(b) of 79 days is incorrect.

A final Office action was mailed on September 19, 2006. Applicants filed their response in the form of a RCE and a request for an extension of time within the third month on March 19, 2007, in excess of the three-month period from the mailing date of the final Office action. See 37 CFR 1.704(b). Thus, applicants failed to engage in reasonable efforts to conclude prosecution of this application. The period of adjustment should have been reduced by 90 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, December 20, 2006, ending on the date the reply was filed, March 19, 2007. See 37 CFR 1.704(b). Accordingly, a period of reduction of 90 days will be entered.

In view thereof, the patent should have issued with a revised patent term adjustment of **zero (0) days** (286 days of Office delay - 297 days of applicant delay).

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

This matter is being referred to the Certificate of Correction Branch for issuance of a certificate of correction to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **zero (0) days**.

[1] The PALM records incorrectly reflect the filing date of the RCE and the request for an extension of time for response within the third month as March 18, 2007, instead of March 19, 2007.

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Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

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PTA Calculations for Application: 10/688999			
Application Filing Date:	10/21/2003	PTO Delay (PTO):	286
Issue Date of Patent:	03/04/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	207
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-90		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
69	12/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		90	
64.5	02/13/2008	PTA 36 MONTHS			
64	03/04/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
63	01/17/2008	EXPORT TO FINAL DATA CAPTURE			
62	01/16/2008	DISPATCH TO FDC			
61	01/16/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
60	01/09/2008	RESPONSE TO REASONS FOR ALLOWANCE			
59	01/09/2008	ISSUE FEE PAYMENT VERIFIED			
58	01/09/2008	ISSUE FEE PAYMENT RECEIVED			
57	12/04/2007	FINISHED INITIAL DATA CAPTURE			
56	10/22/2007	EXPORT TO INITIAL DATA CAPTURE			
55	10/17/2007	MAIL NOTICE OF ALLOWANCE			
54	10/11/2007	ISSUE REVISION COMPLETED			
53	10/11/2007	DOCUMENT VERIFICATION			
52	10/11/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	10/10/2007	NOTICE OF ALLOWABILITY			
50	10/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
49	09/20/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
48	09/22/2007	DATE FORWARDED TO EXAMINER			
47	09/20/2007	RESPONSE AFTER NON-FINAL ACTION		89	45
46	09/20/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	03/23/2007	MAIL NON-FINAL REJECTION			

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44	03/20/2007	NON-FINAL REJECTION			
43	03/20/2007	DATE FORWARDED TO EXAMINER			
42	03/18/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
41	03/20/2007	DATE FORWARDED TO EXAMINER			
40	03/18/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
39	03/20/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
38	03/18/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	03/18/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
36	03/19/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
35	09/19/2006	MAIL FINAL REJECTION (PTOL - 326)			
34	09/16/2006	FINAL REJECTION			
33	08/21/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	08/30/2006	DATE FORWARDED TO EXAMINER			
31	08/21/2006	RESPONSE AFTER NON-FINAL ACTION		31	24
30	08/21/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	08/21/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
28	08/21/2006	REFERENCE CAPTURE ON IDS			
27.7	08/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	08/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	08/21/2006	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
25	08/21/2006	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
24	04/21/2006	MAIL NON-FINAL REJECTION			
23	04/17/2006	NON-FINAL REJECTION			
22	08/19/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	10/21/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	04/06/2006	DATE FORWARDED TO EXAMINER			
19	03/31/2006	RESPONSE TO ELECTION / RESTRICTION FILED		87	17

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18	03/31/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	10/03/2005	MAIL RESTRICTION REQUIREMENT	286		-1
16	09/29/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
15.7	08/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	08/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
13	02/06/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	02/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	02/06/2004	REFERENCE CAPTURE ON IDS			
10.7	10/21/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/21/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	01/22/2004	APPLICATION IS NOW COMPLETE			
8	01/22/2004	APPLICATION RETURN FROM OIPE			
7	01/22/2004	APPLICATION RETURN TO OIPE			
6	01/21/2004	APPLICATION DISPATCHED FROM OIPE			
5	01/22/2004	APPLICATION IS NOW COMPLETE			
4	01/15/2004	CLEARED BY OIPE CSR			
3	01/15/2004	CASE CLASSIFIED BY OIPE			
2	12/17/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/21/2003	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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DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,338,535 B2

DATED : Mar. 4, 2008

INVENTOR(S) : Plos 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 (79) days

Delete the phrase "by 79 days" and insert – by 0 days--

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Corporate Intellectual Property
One Health Plaza, Building 104
East Hanover, NJ 07936-1080

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of :
Morano et al. :
Application No. 10/689,009 : DECISION GRANTING PETITION
Patent No. 6,978,908 :
Filed: Filed October 20, 2003 :
Attorney Docket No.B-33345P2/GER

This decision is in response to Applicants' "Petition for patent term adjustment pursuant to 37 CFR 1.705(d)" timely[1] filed on February 10, 2005 requesting that the Patent Term Adjustment be adjusted from a determination of 36 days to a determination of eighty-five (85) days.

Applicants' petition is **GRANTED**. The Office will *sua sponte* issue a certificate of correction reflecting an adjustment of 85days rather than the 36 day amount printed on the front of the patent. The Office will also adjust the PTA calculation reflected in PAIR to reflect this decision.

Applicants argue that the Office erred in asserting an applicant delay of forty-nine (49) days for the request for acknowledgment of an IDS submitted on May 20, 2005. Applicants assert that it is a comment on the notice of allowability and therefore should not be considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10).

Applicants have also acknowledged that a terminal disclaimer was filed in the application.

Applicants' argument have been considered. The Office agrees with applicants' assertion that the submission of the request for the IDS acknowledgment after the mail date of the notice of allowance is not considered a failure to engage in reasonable efforts to conclude prosecution of the application in this particular application. The Office notes that applicants submitted the IDS on 5/20/2005 and the Office allowed the case on 8/8/2005 without including the acknowledged IDS with the mailing of the notice of allowance. Accordingly, the Office finds that applicants would not have had an opportunity to bring this to the attention of the Office prior to the mail

[1]Patent Issue on December 27, 2005.

date of the notice of allowance. [2]

As for the submission of a terminal disclaimer, the Office notes that the Office no longer determines the expiration date of the patent. Accordingly, the Office provides the following notice on the front page of the patent: **Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S. C. 154(b) by – days.** Applicants will have to make the determination of whether the terminal disclaimer will prevent applicants from extending the 20-year term by the additional PTA days.

After review of this decision, this application will be forwarded to the certificate of correction branch for a prompt issuance of a certificate of correction.

The Office acknowledges the receipt of $200.00 for the application for patent term adjustment (petition). No additional fees are required by the Office.

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757

Kery A Fries

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

cc: Adjusted Pair Calculation
Draft Certificate of Correction

[2]The Office makes a distinction between the present fact scenario and a scenario where applicants submitted the IDS on filing but did not ask for IDS acknowledgment until after the notice of allowance. Applicants in the second scenario would have had an opportunity to bring this to the Office's attention prior to the notice of allowance.

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,027	10/21/2003	Jon Muskin	Mus-01	4679

43536 7590 09/27/2006

MUSKIN & CUSICK LLC
1800 CALLOWHILL ST
SUITE 200
PHILADELPHIA, PA 19130

EXAMINER	
HARPER, TRAMAR YONG	
ART UNIT	**PAPER NUMBER**
3714	

DATE MAILED: 09/27/2006

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

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

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Muskin & Cusick LLC
1800 Callowhill ST.
Suite 200
Philadelphia, PA 19130

In re Application of: Jon Muskin	:	PETITION TO SUSPEND
Application No. 10/689,027	:	ACTION
Filed: October 21, 2003	:	UNDER
Attorney Docket No.: Mus-01	:	37 C.F.R. 1.103
For: VIDEO POKER GAME WITH A BET DOUBLING OPTION	:	

This is in response to applicant's petition filed on August 7, 2006 to suspend action by the examiner for a period of six months.

The petition is **DENIED.**

The petitioner argues that U.S. Patent No. 7,017,909 has claims which interfere with claims of the instant application and the suspension is needed in order to prepare a reexamination request on patent. The petitioner points to claim 3 of U.s. Patent 7,017,909 as interfering with claim 29 in the instant application.

A review if the patent and the instant application indicates that claim 3 of the patent is directed to a method and claim 29 of the instant application is directed to an apparatus structure. In addition to the identified claims being drawn to two different statutory classes of inventions the two claims differ rather extensively in scope.

Accordingly, the argument for a possible interference urged by petitioner is not seen to be convincing.

Accordingly, the petition is denied and the application will be acted on in turn by the examiner. Currently, cases being acted on in the Art Unit where this application is pending were filed in June of 2003.

Summary: ***Petition DENIED***

9/20/06

Robert P. Olszewski
Supervisory Patent Examiner
Art Unit 3714

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MUSKIN & CUSICK LLC
30 Vine Street
SUITE 6
Lansdale PA 19446

MAY 15 2007

In re Application of: MUSKIN
Appl. No.: 10/689027
Filed: October 21, 2003
For: VIDEO POKER GAME WITH A BET DOUBLING OPTION

: DECISION ON PETITION
: TO SUSPEND ACTION
: UNDER 37 CRR 1.103

This letter is in response to applicant's petition filed on April 11, 2007 to suspend action by the examiner for a period of six months.

The petition is DENIED.

Petitioner argues that US Patent No. 7,017,909 has claims which interfere with the claims of the instant application and the suspension is needed as claims 31-34 of the instant application are copied from the 7,017,909 patent which forms the basis for re-examination control number 90/008559. Petitioner states that requesting interference at this time would be an unnecessary burden on USPTO resources and would also complicate matters since it is not known at this time what the outcome of the re-examination will be. Petitioner further submits that if suspension is not granted the applicant will have no choice but to request interference since the application could not be allowed in view of MPEP 2306.01.

Petitioner's arguments are not well taken. At the onset it is noted that chapter 2300 of the MPEP was substantially re-written as of Rev. 4, October 2005. Since this revision, there is no section entitled 2306.01 while section 2306 relates to secrecy order cases. It is not clear to what regulation or policy applicant points for support of his position. Notwithstanding, 37 CFR 41.102 appears controlling here:

> *37 CFR 41.102. Completion of examination.*
> *Before a contested case is initiated, except as the Board may otherwise authorize, for each involved application and patent:*
> *(a) Examination or re-examination must be completed, and*
> *(b) There must be at least one claim that:*
> *(1) Is patentable but for a judgment in the contested case, and*
> *(2) Would be involved in the contested case.*

See MPEP 2303 (October 2005 or later). Further, the fact that applicant has copied a claim does not guarantee an interference proceeding is appropriate. Applicant is not entitled to interference because it is desired, and identical language in claims does not guarantee that they are drawn to the same invention. See MPEP 2301.03. Copied claims must be examined and determined to be

fully patentable to applicant prior to the consideration of any request for interference. If after completion of examination, it is deemed a contested case is in order AND the patent in question is still involved in a re-examination proceeding, the office at that point in time as a matter of policy initiates suspension of the application. See MPEP 2284 section I.

Presently, there appears no clear and convincing reason why prosecution of the instant application may not proceed concurrently with a re-examination proceeding of an existing patent. Accordingly, the argument for a possible interference urged by petitioner is not seen as convincing.

The application will remain in active status and will be acted upon by the examiner in regular turn. Questions regarding this decision or general questions related to interference practice may be directed to TC 3700 Special Programs examiner J. Harrison at 571-272-4449 or to the undersigned at 571-272-6996.

PETITION DENIED

Robert Pezzuto
Supervisory Patent Examiner
Art Unit 3714

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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
41ST FLOOR
NEW YORK, NY 10036-2714

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OFFICE OF PETITIONS

In re Application of :
Toshiyuki Oohashi et al :
Application No. 10/689,041 : DECISION GRANTING PETITION
Filed: October 21, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P9219.0003 :

This is a decision on the petition, filed April 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 March 21, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2832 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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LOWE HAUPTMAN BERNER, LLP
1700 Diagonal Road, Suite 300
Alexandria, VA 22314

JUN 29 2006

In re Application of:
Hsin-Fa Yang
Serial No.: 10/689,050
Filed: October 21, 2003
Attorney Docket No.: **3079/191**

SUA SPONTE
DECISION WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due (Notice) mailed on January 26, 2006. A Notice of Abandonment was mailed on June 09, 2006.

A review of the written record indicates that the a request to change the correspondence address filed on December 12, 2005, was not properly processed in the application file. As a result, the Notice mailed on January 26, 2006, was sent to an incorrect correspondence address. Accordingly, it cannot be presumed that the Notice reached practitioner at the correspondence address of record. Therefore, the application was not abandoned in fact.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notice of Allowability and a Notice of Allowance and Issue Fee Due. The shortened statutory periods for response set therein will be reset to run from the date the Notices are re-mailed. Extensions of time for these periods are not available. See 37 C.F.R. § 1.136(c), effective November 07, 2000.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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THELEN REID BROWN RAYSMAN & STEINER LLP
P.O. Box 1510
New York, NY 10150-1510

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of :
William Jones et al :
Application No. 10/689,077 : ON PETITION
Filed: October 11, 2003 :
Attorney Docket No. P24200 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 19, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 20, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The 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 2614 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

cc: Timothy J. Bechen
DREXLER LLP
499 Park Avenue
New York, NY 10022

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THELEN REID BROWN RAYSMAN & STEINER LLP
P. O. Box 1510
New York, NY 10150-1510

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OFFICE OF PETITIONS

In re Application of :
William R. Jones et al :
Application No. 10/689,077 : ON PETITION
Filed: October 21, 2003 :
Attorney Docket No. P24200 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 19, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 20, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Timothy J. Bechen 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 in whose behalf he acts. If, Mr. Timothy J. Bechen desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Timothy J. Bechen, the petitioner herein. However, until otherwise instructed, all

future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The 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 2614 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

cc: Timothy J. Bechen
DRELER LLP
499 Park Avenue
New York, NY 10022

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PO BOX 7021
TROY MI 48007-7021

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OFFICE OF PETITIONS

In re Application of :
Mark H. Falahee :
Application No. 10/689,123 : ON PETITION
Filed: October 20, 2003 :
Attorney Docket No. FLH-10802/29 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 5, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

It is noted that an amendment, in response to the final Office action mailed July 13, 2005, was included with the petition filed on February 5, 2007. However, the amendment is considered non-responsive, since it does not place the application in condition for allowance. See the attached copy of an Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

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

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

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/689,123	FALAHEE, MARK H.	
	Examiner	Art Unit	
	Camtu T. Nguyen	3772	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 1-6.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: The proposed amendment filed on February 5, 2007 will not be entered because the claims, as amended, will require further search and reconsideration. Speficically, the amendment to claim 1 narrows the preamble statement and further limiting the grid, which would require new search and consideration.

C T Nguyen

PATRICIA BIANCO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
1/28/08

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MAR 23 2007

PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE NM 87102

In re Application of	:
James E. Becvar et al	:
Serial No.: 10/689,140	: PETITION DECISION
Filed: October 17, 2003	:
Attorney Docket No.: 31695-1001	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed January 22, 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**.

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

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

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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

COPY MAILED

MAR 07 2006

OFFICE OF PETITIONS

Applicant: Zhu
Appl. No.: 10/689,147
Filing Date: October 20, 2003
Title: PREDICTION AND CONTROL OF MASS UNBALANCE AND HIGH SPEED UNIFORMITY
Attorney Docket No.: MC-44 (P50-0107)
Pub. No.: US 2005/0081614 A1
Pub. Date: April 21, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on October 18, 2005, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the contents of another application submitted in an Information Disclosure Statement.

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

The request for corrected publication received on October 18, 2005, was not timely filed under 37 CFR 1.221(b).

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-13-07

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/689171 Patent No.: 7016030

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 Claims

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: _____

Gregory J, Toatley, Jr.
Supervisory Patent Examiner

SPE

2877
Art Unit

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TOLER & LARSON & ABEL LLP
5000 PLAZA ON THE LAKE, SUITE 265
AUSTIN, TX 78746

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AUG 23 2005

OFFICE OF PETITIONS

In re Application of :
Oh-Hun Kwon et al :
Application No. 10/689,192 : DECISION GRANTING PETITION
Filed: October 20, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1035-PM4034-DIV :

This is a decision on the petition, filed August 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1755 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[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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Medtronic
Attn: Noreen C. Johnson, IP Legal Department
2600 Sofamor Danek Drive
Memphis, TN 38132

Mail Date: 04/21/2010

Applicant	: George P. Teitelbaum	: DECISION ON REQUEST FOR
Patent Number	: 7582106	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/689,199	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1142** 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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POLLACK, P.C.
THE CHRYSLER BUILDING
132 EAST 43RD STREET, SUITE 760
NEW YORK NY 10017

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Degennaro, Charles Jr.	:	
Application No. 10/689,234	:	ON PETITION
Filed: October 20, 2003	:	
Attorney Docket No. 3006.1001	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 6, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 $510.00 extension of time fee submitted with the petition on March 6, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

This matter is being referred to Technology Center 3700.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

RATNER PRESTIA
P O BOX 980
VALLEY FORGE, PA 19482-0980

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AUG 17 2004

OFFICE OF PETITIONS

In re Application of
Fongelland et al.
Application No. 10/689,252
Filed: October 20, 2003
Attorney Docket No. JMYT-234US1

DECISION ON PETITION

This is a decision on the "Petition for Grant of Filing Date," filed June 3, 2004, requesting that the above-identified application be accorded a filing date of October 20, 2003.

Application papers in the above-identified application were filed on October 20, 2003. On May 25, 2004, the Initial Patent Examination Division (IPED) mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was filed without a specification.

In response, applicants timely filed the instant petition, asserting that the application as filed included a specification. Specifically, applicants state that the application was filed with a copy of the specification from the parent application (PCT/GB99/02935). In support thereof, applicants submit a copy of the application as they maintain it was filed, as well as, a copy of their itemized return postcard with an Office date-stamp thereon of October 20, 2003.

A review of the application as filed reveals that it included the copy of the specification from the parent application. Specifically, the application as filed included *inter alia* a 15 page specification, 3 pages of claims (including at least one process claim) and a 1 page abstract. Given the presence of at least one process claim, this application is appropriately treated as one for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). See MPEP 601.01(f). Pursuant to 35 U.S.C. 111(a)(4), this application as filed met the requirements for a filing date.

The Notice of Incomplete Application mailed May 25, 2004 was mailed in error, and is hereby **withdrawn**.

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 18-0350, as authorized. The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- correction of the filing date to October 20, 2003, using the application papers received in the Office on that date (papers have been re-coded as SPEC 15, CLM 3 and ABST 1).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Robert W. Holland
HAMILTON & TERRILE, LLP
PO Box 203518
Austin, TX 78720

Mail Date: 04/21/2010

Applicant	: Randall E. Juenger	: DECISION ON REQUEST FOR
Patent Number	: 7624218	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/689,253	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1800** 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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JONES DAY
222 East 41st Street
New York, NY 10017-6702

Mail Date: 04/21/2010

Applicant	: Mark Beaumont	: DECISION ON REQUEST FOR
Patent Number	: 7596678	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/689,257	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **574** 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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JUN 12 2006

OFFICE OF PETITIONS

VOLPE AND KOENIG
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

In re Application of :
Shinichi Imade :
Application No. 10/689,260 : ON PETITION
Filed: October 20, 2003 :
Attorney Docket No. SAS2-PT061 :

This is a decision on the petition, filed June 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 3, 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 2851 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).

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Paper No. _____

Date : June 12, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Shinichi Imade
Application No. :10/689,260
Filed :October 20, 2003

The above-identified application has been assigned Patent No. 7,063,426 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. 7,063,426 to Shinichi Imade of Japan for ILLUMINATION APPARATUS AND IMAGE PROJECTION APPARATUS 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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COMMISSIONER FOR PATENTS
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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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APR 3 0 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Imoto
Application No. 10/689,305
Filed: October 20, 2003
Attorney Docket No. 09792909-5755
For: METHOD OF FABRICATING SEMICONDUCTOR DEVICE HAVING SEMICONDUCTOR RESISTANCE ELEMENT

This is a decision on the petition filed March 11, 2004, requesting that Figures 5 and 6 be entered into the above-identified application and that the application retain an October 20, 2003 filing date.

The application was filed on October 20, 2003. However, on January 21, 2004, The Office of Initial Patent Examination mailed a "Notice of Omitted Items in a Nonprovisional Application" (Notice) stating that the application had been accorded a filing date of October 20, 2003, and advising applicant that figures 5 and 6, as described in the specification, appeared to have been omitted.

In response, the present petition was filed. Petitioner argues that figures 5 and 6 should be included with the papers filed on October 20, 2003, because they were originally filed in prior application No. 09/862,042, the entire disclosure of which was incorporated by reference at the time of filing.

The petition is **DISMISSED**.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioner neither asserts that the missing figures were actually deposited in the PTO on October 20, 2003, with the other application papers, nor requests a later filing date.

Instead, applicant seeks to add the figures to the present application on the basis that the figures are not new matter. However, no petition is necessary for that purpose. Additional figures may be entered by the primary examiner **without a petition** so long as the figures contain no new matter. See MPEP § 608.02(a).

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

If applicant desires that figures 5 and 6 be added to the application, the appropriate procedure is by way of amendment requesting the entry of the figures. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is inappropriate and is subject to dismissal. The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 20, 2003. Figures 5 and 6, submitted with the instant petition, will **not** be processed at this time.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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OFFICE OF PETITIONS

In re Application of
Mark A. Back, et al.
Application No. 10/689,326
Filed: October 20, 2003
Attorney Docket No. PLCR/05US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 22, 2008.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before December 11, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 11, 2007, which set a statutory period for reply of three (3) months. A Notice of Abandonment was subsequently mailed on January 9, 2008. In response, on January 22, 2008, the present petition was filed.

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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JONES DAY
500 GRANT STREET
SUITE 3100
PITTSBURGH, PA 15219-2502

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OFFICE OF PETITIONS

In re Application of	:	
Mark Beaumont	:	
Application No. 10/689,336	:	DECISION GRANTING PETITION
Filed: October 20, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. DB001068-000	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 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 April 29, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2195 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiner
Office of Petitions

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

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JUN 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Mark Beaumont	:	
Application No. 10/689,355	:	DECISION GRANTING PETITION
Filed: October 20, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. DB001061-000	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 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 April 29, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2195 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiner
Office of Petitions

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

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NISKAYUNA, NY 12309

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JAN 1 8 2006

OFFICE OF PETITIONS

In re Application of :
Alok Mani Srivastava et al :
Application No. 10/689,361 : DECISION GRANTING PETITION
Filed: October 17, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 135700-1 :

This is a decision on the petition, filed January 17, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 7, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2878 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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FEB 1 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Lawrence J. Bassuk
Texas Instruments Incorporated
P.O. Box 655474, M/S 3999
Dallas, TX 75265

In re Application of:
Lee D. WHETSEL
Application No. 10/689,374
Filed: October 20, 2003
For: DIGITAL BUS MONITOR INTEGRATED CIRCUITS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renew petition, filed on October 20, 2003, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of October 20, 2003 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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222 East 41st Street
New York, NY 10017-6702

Mail Date: 04/21/2010

Applicant	: Mark Beaumont	: DECISION ON REQUEST FOR
Patent Number	: 7581080	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/689,380	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **467** 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.: X

DATE : February 25, 2008

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/689381 Patent No.: 7129239 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.

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

Comments: _____

_____

_____

_____

_____

SPE 1624 Art Unit

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

2/19/09

Patent No. :7437726
Inventor(s) :Beaumont
Issued : 10/14/2008
Title : METHOD FOR ROUNDING VALUES FOR A PLURALITY OF PARALLEL PROCESSING ELELMENTS
Atty.doc./File No.

Request for Certificates 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 CFR 1.322.

Inspection of the application for the patent reveals col.6 claim 11, line 49 is printed in accordance and a fee for $100 to make this correction. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

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500 GRANT STREET
SUITE 3100
PITTSBURGH, PA 15219-2502

HR/MD

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Mailed:

In re application of :
Hiroyuki Noguchi et al. : DECISION ON
Serial No. 10/689,401 : PETITION
Filed: October 21, 2003 :
For: METHOD OF CASTING ALUMINUM OR ALUMINUM ALLOY

SEP 29 2005

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed March 17, 2005.

The instant petition was filed on April 18, 2005. In the petition, it is urged that the final office action mailed March 17, 2005 was improperly made final.

DECISION

It is noted that the examiner prepared a new final office action which was mailed on July 19, 2005. The previous final office action was withdrawn thereby making the instant petition moot. Accordingly the petition is **DISMISSED.**

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

MCGINN & GIBB, PLLC
8321 OLD COURTHOUSE ROAD
VIENNA, VIRGINIA 22182-3817

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7037354	2006-05-02	10689412	2003-10-20	1216.001

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	/WBUSKOP/	Date (YYYY-MM-DD)	2010-06-16
Name	Wendy Buskop	Registration Number	32202

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 7037354
Issue Date: May 2,2006
Application No. 10689412
Filed: October 20,2003
Attorney Docket No. 1216.01

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

This is a decision on the electronic petition, filed June 16,2010 ,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 June 16,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JONES DAY
222 East 41st Street
New York, NY 10017-6702

Mail Date: 04/21/2010

Applicant	: Mark Beaumont	: DECISION ON REQUEST FOR
Patent Number	: 7574466	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/689,449	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **988** 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
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/689,456	10/20/2003	William Freeman	15436.20.1

CONFIRMATION NO.
4174

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

Date Mailed: September 9, 2004

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c) filed on August 13, 2004, for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ■ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. □ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. □ The Application was published on March 25, 2004, in compliance with 35 U.S.C. 122(b), the publication number is US20040057566A1, and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

OIPE JC1110
JUL 12 2004
PATENT & TRADEMARK OFFICE

10/001,452
6669.02

UNITED STATES PATENT AND TRADEMARK OFFICE Riches DNE/FLE

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

MAY 10 2004

Paper No. 10

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

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MAY 07 2004

OFFICE OF PETITIONS

In re Application of :
Habermehl :
Application No. 10/252,751 : ON PETITION
Filed: September 23, 2002 :
Attorney Docket No. 6669.02 :

This decision concerns the April 19, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on August 31, 2003 for failure to timely submit a proper reply to the May 30, 2003 final Office Action.

Applicant filed a continuation application on October 20, 2003 (Application No. 10/689,466) as reply to the May 30, 2003 final Office Action. In addition, the petition encloses the $665 petition fee (small entity) and states that the entire delay in filing a proper reply from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The application is hereby revived for establishing co-pendency with Application No. 10/689,466. Upon such establishment of co-pendency, the instant parent application is again abandoned as requested in the instant petition.

The application file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
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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VIERRA MAGEN MARCUS HARMON & DENIRO
685 MARKET STREET, SUITE 540
SAN FRANCISCO, CA 94105

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of :
G. Lyle Habermehl :
Application No. 10/689,466 : ON PETITION
Filed: October 20, 2003 :
Attorney Docket No. SIMP-51702US0 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed September 8, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 9, 2004.

Pursuant to petitioner's authorization, Deposit Account No. 50-1826 was charged $750.00 for the petition to revive an unintentionally abandoned application.

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

This matter is being referred to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FROM DIRECTORS OFFICE

DEC 14 2005

TECHNOLOGY CENTER 3600

SHELL OIL COMPANY
P O BOX 2463
HOUSTON, TX 77252-2463

In re Application of BASS ET AL.
Appl. No.: 10/689,470
Filed: October 20, 2003
For: TOROIDAL CHOKE INDUCTOR FOR WIRELESS COMMUNICATION AND CONTROL

WITHDRAWAL FROM ISSUE
37 CFR 1.313(a)

This is a decision on the Petition to Withdraw Application from Issue under 37.C.F.R §1.313 (a) to Permit Consideration of an Information Disclosure Statement Under 37 C.F.R. § 1.97.

Petition is **DISMISSED** as moot.

Applicants have submitted a Request for Continued examination (RCE) concurrently with the Petition to Withdraw from Issue. As stipulated in 37 CFR 1.313(a), " [a] petition under this section is not required if a request for continued examination under § 1.114 is filed prior to the payment of the issue fee." Since the issue fee has not been paid, the present petition is unnecessary and is dismissed as moot.

The application is being forwarded to the Legal Instruments Examiner to enter the Request for Continued Examination and Information Disclosure Statement filed August 11, 2005.

Donald T. Hajec, Director
Patent Examining Technology Center 3600
(571) 272-5150

12/08/05
DTH/db

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

AUG - 8 2006

TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON TX 77057-2631

In re Application of:
JIANG, TONGBI ET AL.
Serial No.: 10/689,471
Filed: October 20, 2003
Docket: MCT.0015C2US (97-0524.04)
Title: A METHOD FOR FORMING A STENCIL

DECISION ON PETITION TO WITHDRAW FINALITY OF OFFICE ACTION

This is a decision on the petition filed on October 31, 2005 to withdraw the finality of the Office Action of November 9, 2005.

The request for reconsideration is **DISMISSED as moot**.

In his October 31, 2005 petition the applicant requested the withdrawal of the finality of the Office Action dated December 5, 2005. In support of his petition, the applicant argues that the June 27, 2005 amendment did not necessitate a new ground of rejection to which a new reference could be applied.

The record shows that:

1) On April 22, 2005 the examiner issued a first Office Action rejecting Claims 34-38.
2) On June 27, 2005 the applicant responded to the Office Action including amendment to Claim 34.
3) On August 31, 2005 the examiner issued a final Office Action rejecting Claims 34-38.
4) On September 21, 2005 the applicant submitted an amendment after final including amendment to Claim 34.
5) On September 29, 2005 the examiner issued an advisory action stating that the amended claims raise new issues of which further search and/or consideration is required.
6) On October 31, 2005 the applicant filed the present petition. The applicant alleges that August 31, 2005 Office Action should not have been final since the examiner used new references that were not necessitated by the amended claims.
7) On December 5, 2005 the applicant filed a Request for Continued Examination.
8) On February 9, 2006 the examiner issued a non-final Office Action, stating that in light of the Request for Continued Examination, "the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114."

In view of the history, the relief the applicant requested, namely the withdrawal of the finality of the August 31, 2005 Office Action, has already occurred. On February 9, 2006 the examiner specifically considered the Request for Continued Examination and withdrew the finality of the previous Office Action. Accordingly, the petition is dismissed as moot.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

for Karen M. Young
Frederick R. Schmidt, Director
Technology Center 3700

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Alexandria, VA 22313-1450
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CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
PO BOX 1895, MS 641
NEW HOLLAND PA 17557

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OFFICE OF PETITIONS

In re Application of	:	
Dix et al.	:	DECISION ON PETITION
Application No. 10/689,483	:	TO WITHDRAW
Filed: October 20, 2003	:	FROM RECORD
Attorney Docket No. 17205-17400	:	

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 17, 2006.

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

A review of the file record indicates that Stephen Michael Patton is no longer associated with Customer Number 37414. 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 current correspondence address of record until otherwise notified by the applicants.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS MN 55403-2420

COPY MAILED

MAY 01 2009

OFFICE OF PETITIONS

In re Application of :
Davison :
Application No. 10/689,487 : DECISION ON PETITION
Filed: October 20, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1291.1134103 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 29, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to 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 3775 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.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
10/689,487	10/20/2003	3775	796	1291.1134103	17	1

CONFIRMATION NO. 7935

CORRECTED FILING RECEIPT

33469
CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Date Mailed: 04/30/2009

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

Applicant(s)

Thomas W. Davison, North Attelboro, MA;

Power of Attorney: The patent practitioners associated with Customer Number 28075

Domestic Priority data as claimed by applicant

This application is a CON of 10/280,489 10/25/2002 PAT 7,056,321
which is a CIP of 09/630,077 08/01/2000 PAT 6,530,926

Foreign Applications

If Required, Foreign Filing License Granted: 01/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/689,487**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method of securing vertebrae

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : October 24, 2006

Kenneth L. Mitchell
WOODLING, KROST, & RUST
9213 Chillicothe Road
Kirtland, OH 44094

Patent No: 7082852 B2
Application No: 10/689502
Applicant: Ikeda, et al.
Issued: August 1, 2006
Title: **CABLE AND/OR THE LIKE SUPPORTING AND GUIDING DEVICE**

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.

Inspection of columns 6, 7, and 8, of the application for the above patent reveals that the errors mentioned in your request are in fact printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner. 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 provision of 1.322.

In view of the foregoing your request in these matters are hereby **denied**.

However, further consideration will be given to these matters, upon receipt of a request for certificate of correction under the provision of 1.323, accompanied by the appropriate fee, which is presently $100.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION
P. O. BOX 1967
MIDLAND, MI 48641-1967

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APR 27 2006

OFFICE OF PETITIONS

In re Application of :
Tomalia, et al. : DECISION ON PETITION
Application No. 10/689,503 :
Filed: October 9, 2003 :
For: 60208D :

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned September 4, 2005 for failure to timely reply to the final Office action mailed June 3, 2005. The final Office action month set a 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 February 7, 2006.

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

The instant petition lacks requirement (1) set forth above. Petitioners have failed to submit a proper reply to the final Office action.

Petitioners are advised that pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Therefore, no extension of time fee is due in connection with this petition. Petitioners may request a refund of the $1,020.00 extension of time fee by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

Any renewed petition must include a proper reply to the outstanding Office action.

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

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NOV 13 2006

OFFICE OF PETITIONS

In re Application of :
Tomalia, et. al : DECISION ON PETITION
Application No. 10/689,503 :
Filed: October 9, 2003 :
Docket No.: 60208d :

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed September 5, 2006.

The petition is hereby **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the final Office action mailed September 3, 2005. Notice of Abandonment was mailed February 7, 2006. A petition under 37 CFR 1.137(b) was filed March 21, 2006 and dismissed April 27, 2006.

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

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

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 final Office action mailed March 29, 2004 is accepted as having been unintentionally delayed.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the continuation application 11/384,910, filed March 21, 2006.

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
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Paper No.

Black Lowe & Graham, PLLC
701 Fifth Avenue
Suite 4800
Seattle, WA 98104

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JUL 05 2007

OFFICE OF PETITIONS

In re Application of :
Odinak et al. :
Application No. 10/689,504 :
Filed: October 21, 2003 :
Attorney Docket No. INTL-1-1038 :
:
: DECISION ON PETITION
:
In re Application of :
Odinak et al. :
Application No. 11/820,066 :
Filed: June 5, 2006 :
Attorney Docket No. INTL-1-1049 :

This is a decision on the petition filed on February 21, 2007, requesting that an improper Continued Prosecution Application (CPA) under 37 CFR 1.53(d) be treated as an application under 37 CFR 1.53(b) and be accorded a filing date of June 5, 2006.

On February 22, 2006, a Notice of Allowance and Fee(s) Due and a Notice of Allowability were mailed in application No. 10/689,504, which set a three (3) month statutory period for reply. In response, on May 19, 2006, applicants paid the issue fee and publication fee. Thereafter, on June 5, 2006, applicants submitted a request for a CPA under 37 CFR 1.53(d) based on prior application No. 10/689,504, accompanied by a copy of the original application papers. On August 15, 2006, application No. 10/689,504 issued as U.S. Patent No. 7,092,816.

The Office notes that at the time the CPA was filed CPA practice no longer applied to applications, other than design applications.[1] Accordingly, the CPA request was improper. See 37 CFR 1.53(d)(1).

On February 21, 2007, applicants filed the present petition. Applicants stated that they submitted a copy of "the nonprovisional utility continuation patent application as transmitted via the EFS-Web system and received by the USPTO on June 5, 2006," with the petition. However, it appears that the applications papers provided with the petition are not identical to the copy of the original application papers submitted with the CPA on June 5, 2006. Therefore, the Office will process the application using the copy of the application papers filed on June 5, 2006.

In the event that an applicant files a request for a CPA that does not meet the requirements of 37 CFR 1.53(d) because the application is not a design application, and the application was filed on or after June 8, 1995, the request for a CPA will be treated as an RCE under 37 CFR 1.114.

The Office will no longer convert an improper CPA to an application under 37 CFR 1.53(b) simply because an applicant requests it. The Office will convert an improper CPA to an application under 37 CFR 1.53(b) only if applicant demonstrates that "there are extenuating circumstances that warrant the burdensome process of converting a CPA into an application under Sec. 1.53(b) (e.g., restoring the application to pending status and correcting the improper RCE is not possible because the application has issued as a patent)." *Elimination of Continued Prosecution Application Practice as to Utility and Plant Patent Applications, 68 FR 32376 (May 30, 2003), 1271 Off. Gaz. Pat. Office 143 (June 24, 2003) (final rule).*

The Office finds that extenuating circumstances warrant the process of converting the CPA to an application under 37 CFR 1.53(b). Accordingly, the petition is granted.

The continuation application under 37 CFR 1.53(b) filed on June 5, 2006, has been assigned application No. 11/820,066. The CPA request and the application papers have been removed from the file of application No. 10/689,504 and have been placed in application No. 11/820,066. Copies of the CPA request and the present petition will be retained in application No. 10/689,504 to complete the record therein. All further correspondence concerning the

[1] Effective July 14, 2003, the Office eliminated CPA practice as to utility and plant applications. *See Elimination of Continued Prosecution Application Practice as to Utility and Plant Patent Applications, 68 FR 32376 (May 30, 2003), 1271 Off. Gaz. Pat. Office 143 (June 24, 2003) (final rule).*

continuation application under 37 CFR 1.53(b) should be directed to application No. 11/820,066, not application No. 10/689,504.

The Office finance records will be corrected to show that the filing, search, and examination fees totaling $425.00 were paid in application No. 11/820,066 on June 5, 2006. The $400.00 petition fee will not be refunded because the filing of the present petition was not necessitated by any error on the part of the USPTO.

Application No. 11/820,066 will be forwarded to the Office of Initial Patent Examination for further processing as a continuation application of prior filed application No. 10/689,504, **with a filing date of June 5, 2006**, using the application papers filed on June 5, 2006.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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SEP 11 2007

OFFICE OF PETITIONS

In re Application of :
Alex Henderson et al :
Application No. 10/689,540 : DECISION GRANTING PETITION
Filed: October 21, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. AZL2003-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 30, 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 declaration/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 January 22, 2004, is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application of	:	
Crocker et al.	:	
Application No. 10/689547	:	ON REQUEST FOR
Filing or 371(c) Date: 10/21/2003	:	RECONSIDERATION OF
Attorney Docket No.	:	PATENT TERM ADJUSTMENT
083847-0198	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705, filed November 24, 2009. Applicants have determined that the application is entitled to 428 days of PTA, not 25 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant's requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The request is properly treated under 37 CFR 1.705(b).

Applicants also request that a decision on this request for reconsideration of patent term adjustment be deferred or delayed until after a final decision has been rendered in Wyeth v. Dudas, Civ. Action No. 07-1492 (JR) (Sep. 30, 2008). There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance. Accordingly, the request to hold in abeyance a decision on the merits of the instant application for patent term adjustment is **DISMISSED**.

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

The 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 fee is a prerequisite for reconsideration of the patent term adjustment under 37 CFR 1.705(b). Accordingly, the request for a refund is, therefore, dismissed.

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

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

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

/ALESIA M. BROWN/

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

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

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OFFICE OF PETITIONS

In re Patent No. 7,401,353 :
Application No. 10/689,549 :
Filed: October 21, 2003 : ON PETITION
Issued: July 15, 2008 :
Attorney Docket No. 44655-306460 :

This is a decision on the petition filed August 4, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to add the city of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

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JAN 27 2010

In re Patent No. 7,299,761	:	
Issued: November 27, 2007	:	
Application No. 10/689,557	:	NOTICE
Filed: October 20, 2003	:	
Atty Docket No. 20238.18CON	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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RACHAEL LINETTE COOK
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OFFICE OF PETITIONS

In re Application of

Rachael Cook :

Application No. 10/689,570

: DECISION ON PETITION

Filed: October 20, 2003

:

Attorney Docket No. 117074-1-CON-CON

This is a decision on the petition under 37 CFR 1.137(b), October 10, 2006, and in duplicate on October 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 18, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on April 18, 2006. A Notice of Abandonment was mailed on August 10, 2006.

The amendment filed October 16, 2006.

The application is being forwarded to Technology Center 3600, GAU 3623 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Reissue Application of Patent No. 6,336,748 :
Original Issue Date: January 8, 2002 :
Application No. 10/689,577 : DECISION ON PETITION
Filed: October 20, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 01-272-D :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 20, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. 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.

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 Art Unit 3682 for appropriate action on the amendment filed October 20, 2003, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks
Lead 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 :
Suzumura et al. :
Application No. 10/689,613 : DECISION DISMISSING
Filed: 22 October, 2003 : PETITION
Atty Docket No. 032218-018 :

This is a decision on the petition filed on 28 September, 2004, 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 Application No. 09/783,992, filed on 16 February, 2001.

The petition is **DISMISSED AS MOOT**.

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;[1]

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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

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

The instant pending application was filed on 22 October, 2003, and was pending at the time of filing of the instant petition.

The current procedure where a claim for priority under 37 CFR 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(3).[2]

In the instant case, the Office recognized the claim for benefit of the prior-filed nonprovisional application, No. 09/783,992, which appeared on the transmittal letter for the instant application. Further, Office PALM records indicate that this application was published on 29 April, 2004, including the claim to benefit of the instant prior-filed nonprovisional application. In view thereof, a petition under 37 CFR 1.78(a)(3) is unnecessary.

The petition fee of $1,330.00 will be credited to counsel's deposit account, No. 02-4800, in accordance with the present petition.

Any questions concerning this decision on petition may be directed to Senior Petitions Attorney Douglas I. Wood at 571.272.3231. All other inquiries concerning either the

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[2]*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.

examination process or status of the application should be directed to the Technology Center.

The application is being referred to Technology Center AU 3725 for further processing.

Frances Hicks

Frances M. Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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In re Application of :
FEARN, Richard :
Application No. 10/689,639 : DECISION ON PETITION
Filed: October 22, 2003 : TO WITHDRAW
Attorney Docket No. : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 2006.

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

A review of the file record indicates that the power of attorney to NORMAN M. CAMERON has been revoked by the applicant of the patent application on December 18, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LAW OFFICES OF CLEMENT CHENG**
17220 NEWHOPE STREET, APT 127
FOUNTAIN VALLEY, CA 92708

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,656	10/22/2003	Mikhail Kejzelman	003301-054	6495

21839 7590 01/13/2009
BUCHANAN, INGERSOLL & ROONEY PC
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EXAMINER	
KESSLER, CHRISTOPHER S	

ART UNIT	PAPER NUMBER
1793	

NOTIFICATION DATE	DELIVERY MODE
01/13/2009	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):

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Mailed: 1/13/09

In re application of	:	
MIKHAUL KEJZELMAN et al.	:	DECISION ON
Serial No. 10/689,656	:	PETITION
Filed: October 22, 2003	:	
For: METHOD OF PREPARING IRON-BASED COMPONENTS		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed July 16, 2008.

On January 24, 2009, a final office action was mailed to applicants rejecting all claims. A reply to the office action was filed by Applicant on June 23, 2008. In the reply, Applicant made no amendments to the claims (although a claim set was filed) and also submitted a Declaration under 37 CFR 1.132 purporting to show unexpected results. On July 16, 2008, the finality of the previous rejection was withdrawn and a new final office action was mailed.

On August 5, 2008 the instant petition under 37 CFR 1.181 was filed to formally request the withdrawal of finality of the July 16, 2008 office action.

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

DECISION

Section 706.07 of the MPEP states:

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

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

Petitioner argues that nowhere does this section of the MPEP contain any statement that would permit the Examiner to make final an Office action containing a new ground of rejection where (1) Applicant did not amend the claims at all, and (2) Applicant did not cite the information forming the basis of the new ground of rejection in an IDS filed under 37 C.F.R. § 1.97(c). This is true irrespective of whether finality of a previous Office action was withdrawn.

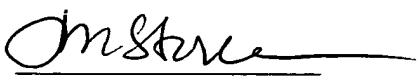
Petitioner further argues that in the present application, the Office action of July 16, 2008 acknowledges that no amendment was made to the claims in the response filed on June 23, 2008.

A review of the record of IDS's filed by Applicants in this application makes clear that neither Ozaki et al. nor Ferguson et al. were cited by Applicants in an IDS filed under 37 C.F.R. § 1.97(c). Accordingly, the requirements of MPEP § 706.07(a) for making final the July 16, 2008 Office action have not been met. Petitioner submits that, as a result, such finality is improper and should be withdrawn.

A review of the record shows that in the final rejection of January 24, 2009, claims 20-30, 34-40, 48 and 49 were rejected under 35 USC 103(a) as being unpatentable over Ozaki in view of Rutz. Additionally, claims 20-25, 30, 34-40, 48 and 49 were rejected under 35 USC 103(a) as being unpatentable over Rutz in view of Kondo.

In the most recent final rejection of July 16, 2008, claims 20-25, 30, 34-40, 48 and 49 were rejected under 35 USC 103(a) as being unpatentable over Rutz in view of Kondo. In addition, a new rejection of claims 20-30, 34-38, 40, 48 and 49 under 35 USC 103(a) as being unpatentable over Ozaki alone was made. Finally, claim 39 was newly rejected under 35 USC 103(a) as being unpatentable over Ozaki in view of "Powder Shaping and Consolidation Technologies," ASM Handbook, vol. 7, 1998, pp. 313-320 (hereinafter "Ferguson").

The new grounds of rejection of claims 20-30, 34-38, 40, 48 and 49 over Ozaki alone was improper. The new grounds of rejection of claim 39 over Ozaki in view of Ferguson likewise improper. As such, the finality of the office action was premature and the petition for withdrawal of finality is **GRANTED.**



Jacqueline M. Stone, Director
Technology Center 1700
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Mail Date: 04/20/2010

Applicant	: Mikhail Kejzelman	: DECISION ON REQUEST FOR
Patent Number	: 7585459	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/689,656	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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JAN 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Tanoi et al.	:	
Application No. 10/689,659	:	DECISION ON
Filed: October 22, 2003	:	PETITION
Atty Docket No. 000409-066	:	

This is a decision on the PETITION UNDER 37 C.F.R. § 1.181 FOR WITHDRAWAL OF HOLDING OF ABANDONMENT filed October 24, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed March 1, 2006. This Notice set a three month shortened statutory period for reply, with extensions of time obtainable under 37 CFR §1.136(a). No reply having been received and no extensions obtained, the above-identified application became abandoned effective June 2, 2006. A courtesy Notice of Abandonment was mailed on September 14, 2006.

In response, applicants filed the instant petition, asserting that the Office action was never received and requesting that the holding of abandonment be withdrawn.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would

have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has supported his claim of non-receipt with such evidence. In addition, an irregularity in the mailing of the Office action is noted. The record of this application shows that the Office action mailed to the correspondence address of record was returned by the Postal Service.

In view thereof, the notice of abandonment mailed September 14, 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 3634 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-mailing of the final Office action mailed March 1, 2006 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 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Alvarenga Baptista et al. :
Application No. 10/689,662 : DECISION ON PETITION
Filed: October 22, 2003 :
Attorney Docket No. 2764-127 :

This is a decision on the "PETITION UNDER 37 CFR § 1.182 TO ACCORD A FILING DATE OF OCTOBER 22, 2003," filed April 1, 2004. Applicants request that the above-identified nonprovisional application be accorded a filing date of October 22, 2003 with figure 1 submitted on petition added to the application.

Application papers in the above-identified application were deposited on October 22, 2003. However, on January 23, 2004, the Initial Patent Examination Division mailed applicants a "Notice of Incomplete Nonprovisional Application," stating that the application papers deposited October 22, 2003 had not been accorded a filing date because the application was deposited without drawings.

In response, applicants filed the instant petition. Applicants state that this application should be accorded a filing date as of the date of original deposit because:

> the omitted drawing figure was a schematic illustration of a conventional structure provided solely for explanatory purposes and that the original disclosure was complete and enabling to one skilled in the art in the absence of that drawing illustration.

Moreover, applicants point out that the invention disclosed in the application relates to a process. However, applicants also request that the application be amended to include this drawing figure that schematically illustrates a state of the art structure. Applicants state that this drawing does not constitute new matter to this application.

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).

In regards to withdrawing the Notice, 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 it contained at least one process 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 figure 1 (Brief Description of Drawings, p. 13 of Specification), mailing of a Notice requiring submission of that drawing was appropriate. The Office should have mailed a "Notice of Omitted Items" rather than a "Notice of Incomplete Nonprovisional Application." The "Notice of Incomplete Nonprovisional Application" mailed January 23, 2004, was mailed in error and is hereby **withdrawn**.

Nonetheless, applicant's reference to drawings in the specification would have warranted the Office mailing applicant a "Notice of Omitted Items." Thus, it would still have been necessary for applicant to file a petition under § 1.53(e)(2). Accordingly, the petition fee is required and will not be refunded.

In view thereof, the application as originally deposited without drawings is entitled to a filing date of October 22, 2003.

Consideration now turns to petitioner's request to amend the application to include Figure 1. Petitioner acknowledges that Figure 1 was not present in the application on filing. A figure not present in the application on the filing date cannot be considered a part of the original application papers.

The option of retaining the original filing date and entering the omitted item via preliminary amendment is not available on petition in response to a "Notice of Omitted Items." The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioner does not assert that the missing drawing figure was deposited on October 22, 2003, or request a April 1, 2004 filing date (the date the drawing figure was supplied). Instead, applicants seek to amend the application to include the drawing figure. However, no petition under 37 CFR 1.182 is necessary for that purpose. New drawings may be entered by the primary examiner without petition so long as the new drawings contain no new matter. See MPEP § 608.02(a).

Accordingly, to the extent the petition requests entry of the drawing figure, the petition is inappropriate and is subject to dismissal.

CONCLUSION

To the extent that the petition requests that the application be accorded a filing date of October 22, 2003 with Figure 1 as part of the original application disclosure, the petition under §1.53 is **DISMISSED**. However, to the extent that the petition requests that the application as originally filed, without Figure 1, be accorded a filing date of October 22, 2003, the petition pursuant to §1.53 is **GRANTED**.

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 further processing **with a filing date of October 22, 2003** and for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing.

Telephone inquiries specific to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Jeffery H. Nelson
NIXON & VANDERHYE, P.C.
901 NORTH GLEEB ROAD, 11TH FLOOR
ARLINGTON VA 22203

AUG 29 2006

In re Application of GROVE
Appl. No.: 10/689663
Filed: October 22,2003
For: TRUBINE COMPARTMENT VENTILATION CONTROL SYSTEM AND METHOD USING VARIABLE SPEED FAN

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed August 8, 2005, to expunge information from the above identified application. The petition included authorization to charge the requisite fee under 37 CFR 1.17(h) to deposit account 14-1140. Office records indicate a fee of $130 has been charged.

Petitions to expunge require a fee of $200 as set forth in 37 CFR 1.59 and 37 CFR 1.17(g). No authorization to charge the deficient fee is seen.

The petition is dismissed.

Petitioner requests that documents marked proprietary and trade secret information of the General Electric Company, filed August 8, 2005 be expunged from the record.

The petition is deficient because:

1. While the petition does indicate the information is trade secret or proprietary information, the petition does not contain a clear statement that the information requested to be expunged has not otherwise been made public.

2. The petition does not contain a commitment of the part of petitioner to retain the information to be expunged for the life of any patent with regard to which such information has been submitted.

3. The petition does not contain a statement that the petition is being submitted by, or on behalf of, the party in interest who originally submitted the information.

4. The received petition fEe of $130 is deficient. $70 is due.

Petitioner may request reconsideration of the petition. Any such request must be resubmitted within two months of the mailing date of this decision and supply the omitted statements and additional fee.

Any questions regarding this petition decision should be directed to Jessica Harrison, Technology Center 3700 Special Program Examiner at 571-272-4449.

PETITION DISMISSED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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NIXON & VANDERHYE, P.C.
901 NORTH GLEEB ROAD, 11th FLOOR
ARLINGTON, VA 22203

In re Application of: GROVE
Serial No.: 10/689663
Filed: October 22, 2003
Docket: 011738.00305
Title: TURBINE COMPARTMENT VENTILATION CONTROL SYSTEM AND METHOD OF USING VARIABLE SPEED VAN

AUG 20 2007

DECISION ON PETITION
UNDER 37 C.F.R. 1.59

This is a response to the petition under 37 CFR 1.59(b), filed September 12, 2006 to expunge information from the above identified application.

The petition is granted.

Petitioner requests that documents marked proprietary and trade secret information of the General Electric Company be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public.

The petition fee set forth in 37 CFR 1.17(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 of any patent which issues on the above-identified application.

The expunged material has been removed from the official file. The information has been closed from public view.

Any questions regarding this decision should be directed to Jessica Harrison, Technology Center 3700 Special Programs Examiner at 571-272-4449

PETITION GRANTED

Karen M. Young, Director
Technology Center 3700

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ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Yukihiko Ichikawa	: DECISION ON REQUEST FOR
Patent Number	: 7609881	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/689,669	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1684** 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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Shaw Pittman LLP
1650 Tysons Boulevard
McLean VA 22102

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JUL 26 2006

OFFICE OF PETITIONS

In re Application of :
Tudora, et al. :
Application No. 10/689,671 : ON PETITION
Filed: October 22, 2003 :
Attorney Docket No. B&B-117// KI-82263 :
For: ANTI-RATTLE DOOR ASSEMBLY

This is a decision on the petition under 37 CFR 1.137(b), filed on May 8, 2006 (certificate of mailing date May 3, 2006) to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely respond to the final Office action mailed September 15, 2005, which set an extendable three month period for reply. No extensions of time or reply being received in the Office, this application became abandoned on December 16, 2005. A Notice of Abandonment was mailed on March 31, 2006.

Applicants have submitted a RCE and required fee and amendment in reply to the September 15, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 15, 2005 final Office action, and the petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that petitioner has no knowledge that the delay was in fact unintentional, petitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The revocation/power of attorney filed with the present petition is not acceptable because a statement under 3.73(b) was not filed. A courtesy copy of this decision is being mailed to petitioner. However, any future correspondence regarding this application will be mailed to the address of record.

After the mailing of this decision the application will be forwarded to Technology Center AU 3676 for consideration of the RCE and amendment filed on May 8, 2006 (certificate of mailing date May 3, 2006).

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: LAURENCE A. GREENBERG
P.O. BOX 2480
HOLLYWOOD, FL 33020-2480

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1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

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JUN 26 2009

OFFICE OF PETITIONS

In re Application of :
Alfred Grill, et al. :
Application No. 10/689,675 : DECISION GRANTING PETITION
Filed: October 22, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. YOR920030300US1 :
(20140-00

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 25, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 4, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1793 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

Mail Date: 04/21/2010

Applicant	: Alfred Grill	: DECISION ON REQUEST FOR
Patent Number	: 7628974	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/689,675	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **973** 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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OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Dararith Un	: DECISION ON REQUEST FOR
Patent Number	: 7616625	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/689,690	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1132** 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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Mr. Stephen Peters
3760 Vance Street, #200
Wheatridge CO 80033

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OFFICE OF PETITIONS

In re Application of
Rockwood, et al.
Application No. 10/689,693
Filed: October 20, 2003
Attorney Docket No. 5649-2-1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed November 7, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

Petitioners submitted a $200.00 petition fee with the present petition. The fee associated with filing a petition under 37 CFR 1.182 is $400.00. The $200.00 balance due has been assessed to petitioners' deposit account.

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

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

Shirene Willis 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
10/689,693	10/20/2003	2628	1509	3404-2-1	102	5

CONFIRMATION NO. 4662

Mr. Stephen Peters
3760 Vance Streer, #200
Wheatridge, CO 80033

CORRECTED FILING RECEIPT

OC000000023466881

Date Mailed: 04/19/2007

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)

Alyn Rockwood, Colorado Springs, CO;
Lance Hagen, Boulder, CO;
Scott Hagen, Longmont, CO;
John N. Lee, Berthoud, CO;

Assignment For Published Patent Application

Curventa Softworks, LLC., Longmont, CO

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 09/360,029 07/23/1999 PAT 7,196,702
which claims benefit of 60/093,892 07/23/1998
and claims benefit of 60/116,199 01/15/1999

Foreign Applications

If Required, Foreign Filing License Granted: 01/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/689,693

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

COMPUTATIONAL GEOMETRY USING CONTROL GEOMETRY HAVING AT LEAST TWO DIMENSIONS

Preliminary Class

345

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.

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

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

GRANTED

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

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

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

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

NOT GRANTED

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

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

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MAY 04 2007
PATENT & TRADEMARK OFFICE

Mr. Stephen Peters
3760 Vance Street, #200
Wheatridge CO 80033

COPY MAILED

APR 26 2007

OFFICE OF PETITIONS

In re Application of
Rockwood, et al.
Application No. 10/689,693
Filed: October 20, 2003
Attorney Docket No. 5649-2-1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed November 7, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

Petitioners submitted a $200.00 petition fee with the present petition. The fee associated with filing a petition under 37 CFR 1.182 is $400.00. The $200.00 balance due has been assessed to petitioners' deposit account.

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
10/689,693	10/20/2003	2628	1509	3404-2-1	102	5

CONFIRMATION NO. 4662

Mr. Stephen Peters
3760 Vance Streer, #200
Wheatridge, CO 80033

CORRECTED FILING RECEIPT

OC000000023466881

Date Mailed: 04/19/2007

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)

Alyn Rockwood, Colorado Springs, CO;
Lance Hagen, Boulder, CO;
Scott Hagen, Longmont, CO;
John N. Lee, Berthoud, CO;

Assignment For Published Patent Application

Curventa Softworks, LLC., Longmont, CO

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 09/360,029 07/23/1999 PAT 7,196,702
which claims benefit of 60/093,892 07/23/1998
and claims benefit of 60/116,199 01/15/1999

Foreign Applications

If Required, Foreign Filing License Granted: 01/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/689,693

Projected Publication Date: Not Applicable

Non-Publication Request: No

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NOT GRANTED

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HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20044

MAIL

NOV 01 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Nelson Gonzalez, et al. :
Application No. 10/689,716 : DECISION ON PETITION
Filed: October 22, 2003 : TO MAKE SPECIAL
For: MOTHERBOARD FOR SUPPORTING :
MULTIPLE GRAPHICS CARDS :

This is a decision on the petition filed August 19, 2004 under 37 CFR §1.102(d) to make the application special.

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

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-15-08

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 7153889

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.

Also note col. 154, line 7, should be line 47, and I see the New Bib Data Sheet Dated 11-29-06-CTMS is OK.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

SPE

1624
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 09-07

Paper No: __

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SEP 10 2007

OFFICE OF PETITIONS

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

In re Application of :
Park, et al. : DECISION
Application No.: 10/689,747 :
Filing Date: 22 October, 2003 :
Attorney Docket No. 1349.1304 :

This is a decision on the petition, filed on 26 April, 2007, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below 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 2 October, 2006, with reply due absent an extension of time on or before 2 January, 2007;

[1] NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

- the application went abandoned by operation of law after midnight 2 January, 2007;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;
- on 26 April, 2007, Petitioner filed the instant petition, and averred therein, *inter alia*, timely reply in the form of an amendment, on 29 December 2006, with a copy of the reply and of the date-stamped ("DEC 29 2006 ") receipt cards (see: MPEP §503[2]) evidencing Office receipt of the reply, and such averments and showings as instructed (see: MPEP §711.03(c) discussed below);
- a 3 May, 2007, Interview Summary refers to a 24 April, 2007, wherein the Examiner apparently informed the Petitioner that the instant matter was deemed abandoned.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) can inform an

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[2] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

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

* * *

RETURN POSTCARD

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

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

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

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

applicant/practitioner as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

---

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

Allegations as to the Request to Withdraw the Holding of Abandonment

---

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[6] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

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

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

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

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[10]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the

---

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> 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.
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears Petitioner has satisfied the showings required herein.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, however, there is no Notice of Abandonment to be vacated..

The instant application is released to Technology Center 2100 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571)

272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-20-08

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/689765 Patent No.: 7415065

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

C. Lee
Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

/David C. Payne/ 2611
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JAN 18 2005

OFFICE OF THE DIRECTOR
TC 3600

PROSKAUER ROSE LLP
Patent Department
1585 Broadway
New York, NY 10036-8299

In re application of : **DECISION ON PETITION**
Kenneth Radigan : **TO MAKE SPECIAL**
Application No. 10/689,787 : **(ACCELERATED**
Filed: October 20, 2003 : **EXAMINATION)**
For: NUCLEAR DECOMMISSIONING INSURANCE FINANCIAL PRODUCT AND METHOD

This is in response to the petition filed on January 7, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (B) above.

With regard to condition (B) the petition has failed to include an election without traverse or a statement that applicant will elect without traverse should a restriction or election be required. Merely stating that all claims are directed to a single invention does not meet the requirements of condition (B).

For the above stated reason, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

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

SNM/jwk: 1/12/05

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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MAR 10 2005

OFFICE OF THE DIRECTOR
TC 3600

PROSKAUER ROSE LLP
PATENT DEPARTMENT
1585 Broadway
New York, NY 10036-8299

In re application of : **DECISION ON PETITION**
Kenneth Radigan : **TO MAKE SPECIAL**
Application No. 10/689,787 : **(ACCELERATED**
Filed: October 20, 2003 : **EXAMINATION)**
For: NUCLEAR DECOMMISSIONING INSURANCE FINANCIAL PRODUCT AND METHOD

This is in response to the renewed petition filed on February 04, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

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

KJD/pav: 03/03/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

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JUL 19 2010

OFFICE OF PETITIONS

In re Application of

Hill, et al.

Application No. 10/689,789

Filed: October 20, 2003

Attorney Docket No. **42P17630**

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-cited application became abandoned on November 22, 2009, for failure to reply in a timely manner to the communication mailed October 21, 2009, which set a period for reply of one (1) month from its mailing date. A Notice of Abandonment was mailed on April 3, 2009.

The amendment filed March 22, 2010, is noted.

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.

The application is being forwarded to Technology Center 2800, GAU 2833 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

Cc:
Patrick Buckley
Buckley, Maschoff & Talwalkar, LLC
50 Locust Avenue
New Canaan, CT 06840

UNITED STATES PATENT AND TRADEMARK OFFICE

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SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

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OFFICE OF PETITIONS

In re Application of :
Dennis Brian Shea et al. :
Application No. 10/689,806 : DECISION GRANTING PETITION
Filed: October 21, 2003 :
Attorney Docket No. 124858/GETS5307.1 :

This is a decision on the petition, filed July 26, 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 June 4, 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 Recision Of Nonpublication Request and/or Notice of Foreign Filing was mailed July 27, 2004 advising that the projected publication date was scheduled for November 4, 2004.

The petition fee in the amount of $1330.00 has been charged to deposit account no. 19-1345 per the authorization in the petition.

This matter is referred to Technology Center 3748 for further examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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SARA A. CENTIONI
NEXSEN PRUET ADAMS KLEEMEIER, LLC
POST OFFICE DRAWER 2426
COLUMBIA, SC 29202-2426

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OFFICE OF PETITIONS

In re Application of :
John F. Jella :
Application No. 10/689,890 : ON PETITION
Filed: October 20, 2003 :
Attorney Docket No. 36263-13 (7871-A-3CIP2) :

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply to the non-final Office action mailed April 6, 2005.

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

The Office hereby acknowledges receipt of $1,200 in claim fees and $510 for a three (3) months extension of time filed November 14, 2005. 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). Since the $510 extension of time fee submitted with the instant petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being referred to Technology Center Art Unit 3634, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

PATENT DEPARTMENT - 53051
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

In re Application of :

WEISSMAN, Adam J. et al. :
Application No. 10/689,903 : DECISION ON PETITION
Filed: October 21, 2003 : TO WITHDRAW
Attorney Docket No. **53051/288072** : 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 08, 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, transferring files to another firm, 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 Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JOHN A. DRAGSETH, ESQ.**
FISH & RICHARDSON P.C.
60 SOUTH SIXTH STREET
SUITE 3300
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

PATENT DEPARTMENT - 53051
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

In re Application of :

WEISSMAN, Adam J. et al. :
Application No. 10/689,903 : DECISION ON PETITION
Filed: October 21, 2003 : TO WITHDRAW
Attorney Docket No. **53051/288072** : 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 30, 2007.

The request is **APPROVED**.

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

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

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

There is an outstanding Office action mailed June 26, 2007 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ADAM J. WEISSMAN**
323 MARINE STREET, #19
SANTA MONICA, CA 90405

cc: **JOHN A. DRAGSETH, ESQ.**
FISH & RICHARDSON P.C.
60 SOUTH SIXTH STREET
SUITE 3300
MINNEAPOLIS, MN 55402

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Paper No.

ATTN: AMSEL-LG-L
George B. Tereschuk, Esq.
U. S. Army Communications-Electronics Command
Fort Monmouth, NJ 07703-5010

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APR 05 2004

OFFICE OF PETITIONS

In re Application of :
Shapur Sahba :
Application No. 10/689,920 : ON PETITION
Filed: October 20, 2003 :
Attorney Docket No. CECOM 5458 :

This is in response to the "Petition Under 37 CFR 1.47(b)," filed October 20, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor, Shapur Sahba, cannot be reached to sign the oath or declaration for this application. Specifically, the declaration/statement of facts of George Tereschuk establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but those items were returned as undeliverable. In addition, petitioner has shown that the United States Army has a proprietary interest in the above-identified application with the memorandum of law establishing that a court of competent jurisdiction would award title to United States Army. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to prevent irreparable damage.

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

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) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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COMMISSIONER FOR PATENTS
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Dr. Shapur Sahba
12 Willow Avenue
Ocean, NJ 07712

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APR 05 2004
OFFICE OF PETITIONS

In re Application of
Shapur Sahba
Application No. 10/689,920
Filed: October 20, 2003
For: MULTI-RESONANT DOUBLE-SIDED HIGH-TEMPERATURE SUPERCONDUCTIVE MAGNETIC DIPOLE ANTENNA

Dear Dr. Sahba:

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

cc: ATTN: AMSEL-LG-L
George B. Tereschuk, Esq.
U.S. Army Communications-Electronics Command
Fort Monmouth, NJ 07703-5010

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)
7007747	2006-03-07	10689930	2003-10-20	

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

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/MarkKitchens/	Date (YYYY-MM-DD)	2010-04-27
Name	Mark Kitchens		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7007747
Issue Date: March 7,2006
Application No. 10689930
Filed: October 20,2003
Attorney Docket No.

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

This is a decision on the electronic petition, filed April 27,2010 ,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 27,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Robert J. Lee	: DECISION ON REQUEST FOR
Patent Number	: 7602816	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/689,935	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1603** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 05/18/2010

Applicant : Robert J. Lee
Patent Number : 7602816
Issue Date : 10/13/2009
Application No: 10/689,935
Filed : 10/22/2003

: 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 **1651** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Orum & Roth LLC
53 W. Jackson Boulevard
Chicago IL 60604-3606

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OCT 16 2006
OFFICE OF PETITIONS

In re Application of
ADAMS, et al.
Application No. 10/689,941
Filed: October 21, 2003
Attorney Docket No. 13563

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Gemrich: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Catherine L. Gemrich 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).

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

There is no outstanding Office action that requires a reply from the applicant.

The correspondence address remains unchanged.

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

David Bucci
Petitions Examiner
Office of Petitions

SPE: M. Lebentritt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/07

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/689,958 Patent No.: 7026243

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: _____

_____

_____

_____

_____

_____ 2812

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HENRYK MALAK
8444 HIGH RIDGE ROAD
ELLICOTT CITY, MD 21043

COPY MAILED
SEP 29 2008

In re Application of	:	
Henryk MALAK	:	
Application No. 10/689,965	:	ON PETITION
Filed: October 22, 2003	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 21, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 15, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance (see attached Advisory Action), the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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

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

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

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

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

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

Thurman Page
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/689,965	Applicant(s) MALAK, HENRYK	
	Examiner MONZER R. CHORBAJI	Art Unit 1797	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☒ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-7, 9-10, 16-17, and 19-20*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: Independent claim 1 includes newly added features that require further search and additional evaluation.

OIPE
APR 21 2008
PATENT & TRADEMARK OFFICE

IFW DAC

PTO/SB/64 (01-08)
Approved for use through 04/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor: Henryk Malak

Application No.: 10/689,965 Art Unit: 1797

Filed: 10/22/2003 Examiner: Chorbaji, Monzer R.

Title: Plasmon Enhanced Body Treatment and Bacterial Management

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

04/22/2008 SSESHE1 00000011 10689965
01 FC:2453 770.00 OP

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 $ 770.00 (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 Ammendment after Final (identify type of reply):

☑ has been filed previously on 06 December, 2007.
☐ is enclosed herewith.

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	April 18, 2008 Date
Henryk Malak Typed or printed name	Registration Number, if applicable
8444 High Ridge Road Address	Telephone Number
Ellicott City, MD 21043 Address	

Enclosures: ☑ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

April 18, 2008 Date	Signature Henryk Malak Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JAN 18 2005

OFFICE OF THE DIRECTOR
TC 3600

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

In re application of:
Benjamin David Foster et al
Application No. 10/689,970 : DECISION ON REQUEST
Filed: October 20, 2003 : FOR WITHDRAWAL OF
For: LISTING RECOMMENDATION IN A NETWORK-BASED COMMERCE SYSTEM : ATTORNEY

This is a decision on the request filed on November 15, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

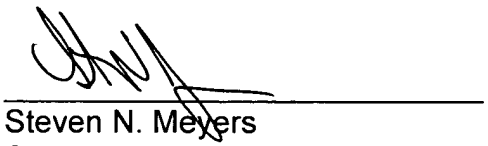
A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

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

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

As to condition B), the reason "Discontinuation of the attorney/client relationship", is not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.



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

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UNITED STATES PATENT AND TRADEMARK OFFICE

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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OCT 29 2004

OFFICE OF PETITIONS

In re Application of	:
Beom-jun Jin	: DECISION GRANTING
Application No. 10/689,981	: PETITION
Filed: 20 October, 2003	:
Attorney Dkt No. 5649-1135	:

This is a decision on the petition, filed on 1 October, 2004, which is treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 20 October, 2003, rather than the presently accorded filing date of 21 October, 2003.

Petitioners allege that the application was deposited in Express Mail service on 20 October, 2003. In support, petitioners have provided a copy of Express Mail Label No. EV318417872US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). Although the Express Mail label bears a "date-in" of "10-26-03" the label also contains an Official USPS postmark dated 20 October, 2003.

In view of the above, the correct date of deposit in Express Mail is 20 October, 2003.

In view of the above, the petition is granted. No petition fee has been charged and none is due.

The application is being referred to the Office of Initial Patent Examination for correction of the filing date to **20 October, 2003.**

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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
10/689,981	10/20/2003	2815	1154	5649-1135	6	27	6

CONFIRMATION NO. 8976

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

CORRECTED FILING RECEIPT

OC000000014254887

Date Mailed: 11/01/2004

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

Applicant(s)

Beom-jun Jin, Seoul, KOREA, REPUBLIC OF;

Power of Attorney: The patent practitioners associated with Customer Number **20792**.

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 02-73053 11/22/2002

If Required, Foreign Filing License Granted: 01/24/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/689,981

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Integrated circuit devices including low dielectric side wall spacers and methods of forming same

Preliminary Class

257

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

GRANTED

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

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

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

NOT GRANTED

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

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

In re Application of:
Beom-jun Jin
Serial No.: 10/689,981
Filed: October 20, 2003
Attorney Docket No.: 5649-1135

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181 filed on April 27, 2005. There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a proper response to the Office action mailed on September 27, 2004. A Notice of Abandonment was mailed on April 4, 2005.

Petitioner asserts that a response (an election of claims) to the Office action (a restriction requirement) was timely filed on October 20, 2004. To support this assertion, petitioner has submitted a copy of the response and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the response by the Patent and Trademark Office (PTO) on October 20, 2004.

A review of the application file record reveals that the response having been acknowledged on the stamped return postcard as being received in the PTO on October 20, 2004 is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that a postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO. Accordingly, it is concluded that the response was timely received but lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed April 4, 2005 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the response filed with the petition on April 27, 2005 is accepted since the originally submitted response is lost.

The Technical Support Staff will enter the response filed with the petition on April 27, 2005 into the Patent Application Locating and Monitoring System (PALM) and the examiner will prepare an action based upon that response.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Robert Oberleitner, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN, VA 22102-8064

Mail Date: 04/20/2010

Applicant	: Jean Marc Berthaud	: DECISION ON REQUEST FOR
Patent Number	: 7660255	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/690,015	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1307** 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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Chun-Pok Leung
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

MAILED

DEC 15 2005

Technology Center 2100

In re Application of:
Nobuhiro MAKI et al
Application No. 10/690,055
Filed: October 20, 2003
For: ADDRESS MANAGEMENT DEVICE

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed on December 14, 2004 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

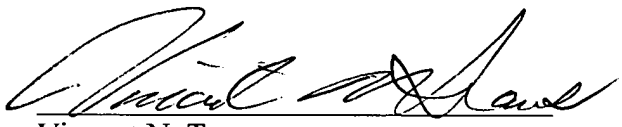
> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR § 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR §§ 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of December 14, 2004 fails to meet requirement (E) as set forth above. Responsive to requirement (E), the discussion does not sufficiently distinguish the patentable feature in the claimed subject matter relative to the prior art references. Applicant must bring out the specific feature that defines the claimed invention as set forth in the independent claims in order to properly discuss the same with relevant details from each of the references. Section (E) explicitly mandates that the "discussion points out, with the particularity required by 37 CFE 1.111 (b) and (c), how the claimed subject matter is patentable over the references." Applicant's petition, however, does not distinctly identify the claim component that distinguishes the claimed invention from the reference prior art.

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

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



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

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Chun-Pok Leung
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San Francisco, California 94111-3834

MAILED

MAR 23 2006

TECHNOLOGY CENTER 2100

In re Application of:
Nobuhiro MAKI et al
Application No. 10/690,055
Filed: October 20, 2003
For: ADDRESS MANAGEMENT DEVICE

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the renewed petition, filed on 21 February 2006 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of 21 February 2006 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the

application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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Gerald H. Kiel, Esq.
REED SMITH, LLP
599 Lexington Avenue
New York, NY 10022-7650

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Wolfgang Weiss :
Application No. 10/690,091 : NOTICE
Filed: October 21, 2003 :
Attorney Docket No. GK-HEF-965/500639.20032 :

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

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

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

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

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

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

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Paper No. 030105

MAR 14 2005

ROBERT E. CANNUSCIO
DRINKER BIDDLE & REATH LLP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

In re Application of:	:	
TERRESA B. OGLETREE	:	
Application No. 10/690,111	:	DECISION ON PETITION
Filed: October 21, 2003	:	TO MAKE SPECIAL
Attorney Docket No. 8092-135(184146)	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed October 18, 2004, to make the above-identified application special.

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

Subject to a requirement for a further showing as may be necessitated by the facts of a particular case, an application may be made special because of actual infringement (but not for prospective infringement) upon payment of the fee under 37 CFR 1.17(h) and the filing of a petition accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

(D) 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 petition contains the petition fee and a statement in accordance with M.P.E.P., Section 708.02, Item II.

For the above stated reasons, the petition is GRANTED.

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

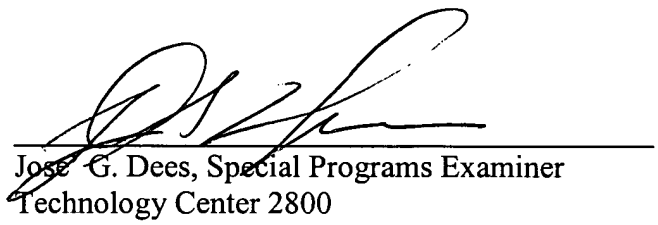
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent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

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

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

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

Inquiries regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.



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

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OFFICE OF PETITIONS

In re Application of :
Mark A. Michalicek :
Application No. 10/690,159 : ON PETITION
Filed: October 16, 2003 :
Attorney Docket No. AFD 625

This is a decision on the petition under 37 CFR 1.137(a), filed October 24, 2005, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply to the non-final Office action mailed April 8, 2005, which set a statutory period for reply of one (1) month from its mailing date. Extensions of time for reply pursuant to 37 CFR 1.136(a) was available. A proper response was not received within the allowed period, and the application became abandoned on May 9, 2005.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

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

The instant petition lacks item (3).

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

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

---

[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). Petitioner argues that a reply to the non-final Office action was mailed on April 28, 2005, accompanied by a certificate of mailing of the same date, but apparently not received by the Office.

With regard to item (3) above, petitioner has failed to satisfy the requirements of item (3) above because the a certificate of mailing dated April 28, 2005, was not found on, or with, the election meant to be responsive to the non-final Office action. With any renewed petition filed, petitioner must provide a copy of the certificate of mailing that allegedly accompanied the election mailed on April 28, 2005.

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 ($1,500.00 for a large entity and $750.00 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

The fee for the instant petitions is $500.00. The petition fee will be charged to deposit account 01-0465 pursuant to the standing authorization filed on October 16, 2003.

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

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[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of :
Mark A. Michalicek :
Application No. 10/690,159 : ON PETITION
Filed: October 16, 2003 :
Attorney Docket No. AFD 625

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

The renewed petition under 37 CFR 1.137(a) is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply to the non-final Office action mailed April 8, 2005, which set a statutory period for reply of one (1) month from its mailing date. Extensions of time for reply pursuant to 37 CFR 1.136(a) was available. A proper response was not received within the allowed period, and the application became abandoned on May 9, 2005. A petition under 37 CFR 1.137(a) was filed on October 24, 2005, and dismissed by a decision mailed November 2, 2005.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

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

The instant petition lacks item (3).

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

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]
The general question asked by the Office is: "Did petitioner act as a reasonable and prudent

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). Petitioner argues that a reply to the non-final Office action was mailed on April 28, 2005, accompanied by a certificate of mailing of the same date, but apparently not received by the Office.

With regard to item (3) above, petitioner has again failed to satisfy the requirements of item (3) above because, notwithstanding petitioner's assertion to the contrary, a certificate of mailing dated April 28, 2005, was not found on, or with, the election meant to be responsive to the non-final Office action, nor did petitioner provide a copy of a certificate of mailing dated April 28, 2005, with instant petition. With any renewed petition filed, petitioner must provide a copy of the certificate of mailing that allegedly accompanied the election mailed on April 28, 2005.

Petitioner's request for a refund of fee for the instant petition is noted, however, the request cannot be granted. The petition filed October 24, 2005, was filed under 37 CFR 1.137(a); this rule authorizes a fee amount under 37 CFR 1.17(f), which is $500.00 for a large entity. Petitioner received a decision on the October 24, 2005, petition and also a decision on the instant petition. The fee was, therefore, charged appropriately. Petitioner had the option of filing a petition to withdraw the holding of abandonment under 37 CFR 1.181 for which there is no fee. However, because petitioner filed the petition under 37 CFR 1.137(a), the fee of $500.00 was required and, since a decision has been made on the petition under 37 CFR 1.137(a), the fee will not be refunded.

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 ($1,500.00 for a large entity and $750.00 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

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[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
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By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Mark A. Michalicek :
Application No. 10/690,159 : ON PETITION
Filed: October 16, 2003 :
Attorney Docket No. AFD 625 :

This is a decision on the second renewed petition under 37 CFR 1.137(a) filed March 20, 2006.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the restriction/election requirement mailed April 8, 2005, which set a shortened period for reply of one month from its mailing date. A response was not received within the allowable period, and the application became abandoned on May 9, 2005. A Notice of Abandonment was mailed on May 9, 2005. A petition under 37 CFR 1.137(a) was first filed on October 24, 2005, and dismissed by a decision mailed November 2, 2005. A renewed petition was filed on December 23, 2005, and dismissed by a decision mailed January 25, 2006.

Petitioner has established that a response to the election/restriction requirement was mailed on April 28, 2005.

The file is now being directed to Technology Center 2800, GAU 2818 for further processing, including processing of the copy of the election filed October 24, 2005.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

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APR 0 5 2004

OFFICE OF PETITIONS

In re Application of
Timothy J. Foster et al.
Application No. 10/690,184
Filed: October 21, 2003
Attorney Docket No. P06335US05/BAS

: DECISION DISMISSING
: PETITION

This is a decision on the petition filed February 9, 2004, requesting that the above-identified application be accorded a filing date of October 21, 2003 with Figure 4 described in the specification as a part of the original disclosure.

The application was filed October 21, 2003 but on January 26, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the application had been accorded a filing date of October 21, 2003 but that Figure 4 described in the specification (description and claims) appeared to have been omitted from the application.

In response, on February 9, 2004, the present petition was filed. Petitioner argues that Figure 4 was included on pages 19/28, 20/28 and 21/28 and was not missing on October 21, 2003. In support, a copy of petitioner's postcard receipt was supplied with the present petition. Petitioner requests that the application be accorded a filing date of October 21, 2003 with Figure 4 as a part of the original disclosure.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503).

Unfortunately, in this case, petitioners' postcard receipt fails to properly itemize the papers allegedly filed in this application. The postcard receipt does not itemize the number of sheets and figures of drawings filed and instead only indicates that drawings were filed. A postcard receipt will not serve as prima facie evidence of receipt in the USPTO of any items which are not properly itemized and identified.

The petition is dismissed.

It is noted that the application transmittal cover sheet indicates that the above identified application is a divisional application of prior filed application no. 09/386,962 and is incorporated by reference herein in their entirety. MPEP 201.06© states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will

> permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Figure 4, of the specification is not new matter if it was a part of the disclosure of the prior application.

Petitioner may file Figure 4 (pages 19/28, 20/28 and 21/28) as a preliminary amendment.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, the petition fee will not be refunded.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 21, 2003, using the application papers filed on that date.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE, KY 40202

Mail Date: 04/21/2010

Applicant	: James Spitler	: DECISION ON REQUEST FOR
Patent Number	: 7588588	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/690,211	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **708** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,237	10/20/2003	Eric P. Krantz	436711	4932

30955 7590 11/27/2006

LATHROP & GAGE LC
4845 PEARL EAST CIRCLE
SUITE 300
BOULDER, CO 80301

EXAMINER	
WILLIAMS, DON J	

ART UNIT	PAPER NUMBER
2878	

DATE MAILED: 11/27/2006

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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In re Application of KRANTZ ERIC P., ET AL.	:	
Application No.: 10/690,237	:	DECISION ON PETITION
Filed: October 20, 2003	:	UNDER 37 CFR 1.48(a)
For: METHOD AND APPARATUS TO EFFECTIVELY REDUCE A NON-ACTIVE DETECTION GAP OF AN OPTICAL SENSOR	:	

This is a decision on the petition filed September 19, 2006, to correct inventorship under 37 CFR 1.48(a).

The petition is **granted.**

In view of the papers filed September 19, 2006, it has been found that this non-provisional application as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by including addition of

Kirk Sigel

The correct inventorship of this application will be listed as follows:

Eric P. Krantz
Douglas J. DeAngelis
Kirk Sigel

Georgia Y. Epps
Supervisory Patent Examiner
Art Unit 2878

Heather F. Perrin
LATHROP & GAGE L.C.
4845 Pearl East Circle, Suite 300
Boulder, Colorado 80301

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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:
Michael Kenrich
Application No. 10/690,243
Filed: October 20, 2003
For: METHOD AND SYSTEM FOR PROXY APPROVAL OF SECURITY CHANGES FOR A FILE SECURITY SYSTEM

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 14, 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
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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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JUN 0 6 2007

OFFICE OF PETITIONS

In re Application of
Michael Frederick Kenrich
Application No. 10/690,243
Filed: October 20, 2003
Attorney Docket No. SSL1P023

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **NOT APPROVED** 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 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
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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JUL 22 2004

In re Application of
Thomas L. Buckley
Application No. 10/690,248
Filed: October 21, 2003
Attorney Docket No. 790105-10031

: DECISION ON PETITION

This is a decision on the petition to make special filed on January 28, 2004. The $130.00 petition fee has been received.

The petition is granted.

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

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

The Supervisory Patent Examiner of Patent Examining Art Unit 3725 is being advised of the granting of the instant petition, and will in turn advise the examiner to whom the application is assigned of the special status of this application and the need for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

Jerry Richard Potts
3248 Via Ribera
Escondido, CA 92029

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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MAY 31 2006
OFFICE OF PETITIONS

In re Application of :
Jeffrey S. Malkin et al :
Application No. 10/690,252 : DECISION ON PETITION
Filed: October 20, 2003 : TO WITHDRAW
Attorney Docket No. 23426-07345 : 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 10, 2005.

The request is **APPROVED**.

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

The request was signed by Rajiv P. Patel on behalf of all attorneys of record who are associated with Customer No. 00758.

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

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Jeffrey S. Malkin
320 Hill Street
San Francisco, CA 94114

cc: Tom Rozylowicz
Fish & Richardson
1425 K Street NW
Washington, DC 20005

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OFFICE OF PETITIONS

TRANSPACIFIC LAW GROUP
617 NORTH DELAWARE STREET
SAN MATEO CA 94401

In re Application of

LU, Li-Chin
Application No. 10/690,253
Filed: December 20, 2003
Attorney Docket No. **N0115/PP/HH**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 22, 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 Michelle R. Eason at 571-272- 4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **VENABLE LLP**
RAYMOND J. HO
575 7TH STREET NW
WASHINGTON, DC 20004-1601

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OFFICE OF PETITIONS

In re Application of
Wang Cheng-Yu
Application No. 10/690,254
Filed: October 20, 2003
Attorney Docket No. NO116/PP/HH

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

A courtesy copy will be mailed to the applicant.

If the attorneys noted on the request to withdraw desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

A non-final rejection was mailed on March 27, 2007. Failure to timely respond will result in the abandonment of this application.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Wang Cheng-Yu
1F., No 21, R & D. II
Science-Based Industrial Park
Hsinchu, TAIWAN, R.O.C.

cc: Venable, LLP
575 7th Street NW
Washington, DC 20004-1601

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FEB 2 2 2007

PTO/SB/83 (01-06)
Approved for use through 12/31/2006. 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	10/690,254
Filing Date	October 20, 2003
First Named Inventor	Wang CHENG-YU
Art Unit	2621
Examiner Name	SENFI, BEHROOZ M
Attorney Docket Number	NO116/PP/HH

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

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

- ☐ all the attorneys/agents of record.
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☑ the attorneys/agents associated with Customer Number 41744

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. ☑ Change the correspondence address and direct all future correspondence to:

☑ The address associated with Customer Number: 44920

OR

☐ Firm or Individual Name					
Address					
City		State		Zip	
Country					
Telephone			Email		
Signature					
Name	Joseph Bach		Registration No.	37,771	
Date	February 22, 2007		Telephone No.	(650) 625-8100	

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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FAX

Date	February 22, 2007
To	Commissioner for Patents
Of	U.S. Patent & Trademark Office
Fax	571-273-8300
From	Joseph Bach, Reg. No. 37,771
Subject	Request for Withdrawal as Attorney or Agent and Change of Correspondence Address

Our Ref	NO116/PP/HH	Appln.	10/690,254
Conf	3423	Inventor	Wang CHENG-YU
Pages (including cover sheet)	2		

Please call attention to problems with this transmission by return fax or telephone. Thank you.

THE INFORMATION CONTAINED IN THIS COMMUNICATION IS CONFIDENTIAL, MAY BE ATTORNEY-CLIENT PRIVILEGED, AND IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE. UNAUTHORIZED USE, DISCLOSURE OR COPYING IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US.

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ATTORNEY/DOCKET NO:

DECLARATION FOR PATENT APPLICATION AND APPOINTMENT OF ATTORNEY

As a below named inventor, I hereby declare that I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention (Design, if applicable) entitled:

Title: Automatic Monitoring and Alerting Device

the specification of which (check at least one of the first three boxes below, as applicable):

☐	is attached hereto.	
☐	was filed on (day-month-year)	as U.S. Application Number
☐	was filed on (day-month-year)	as PCT Application Number
☐	and (if applicable) was amended on (day-month-year)	

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code §119 of any foreign application(s) for patent or inventor's certificate listed on the Application Data Sheet, and have also identified on the Application Data Sheet any foreign application for patent or inventor's certificate having a filing date before that of each application on which priority is claimed.

I hereby claim the benefit under Title 35 U.S. Code §119(e) of any U.S. provisional applications listed on the Application Data Sheet.

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) or PCT international application(s) designating The United States of America listed on the Application Data Sheet, and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application(s) and the national or PCT international filing date of this application.

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 that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: I (We) hereby appoint as my (our) attorneys, with full powers of substitution and revocation, to prosecute this application including the submission and amendment of an application data sheet (37 CFR §1.76), to take instructions from my (our) agent, to receive all communications at the address stated on the Application Data Sheet, and transact all business in the Patent and Trademark Office connected therewith:

Joseph Bach Registration No. 37,771
Pavel Pogodin Registration No. 48,205

Full Name of First or Sole Inventor	Post Office Address
Wang Cheng-Yu	1F., No 21, R&D. II, Science-Based Industrial Park, Hsinchu, TAIWAN, R.O.C.
Citizenship	**Residence (city, and either state or foreign country, MPEP §605.02)**
Taiwan	1F., No 21, R&D. II, Science-Based Industrial Park, Hsinchu, TAIWAN, R.O.C.
Date	**Signature**
2007. 9. 24	Wang Cheng-Yu

☐ See following page(s) for additional joint inventors.

PTO/SB/05 (08-03)
Approved for use through 07/31/2006. OMB 0651-0032
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.

UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	N0116/PP/HH
First Inventor	Wang Cheng-Yu
Title	Automatic Monitoring ...
Express Mail Label No.	ER 500849285 US

03945 U.S. PTO 10/690254 102003

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

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

1. ☑ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. ☑ Applicant claims small entity status.
See 37 CFR 1.27.
3. ☑ Specification [*Total Pages* 11]
(preferred arrangement set forth below)
- Descriptive title of the invention
- Cross Reference to Related Applications
- Statement Regarding Fed sponsored R & D
- Reference to sequence listing, a table, or a computer program listing appendix
- Background of the Invention
- Brief Summary of the Invention
- Brief Description of the Drawings *(if filed)*
- Detailed Description
- Claim(s)
- Abstract of the Disclosure

4. ☑ Drawing(s) (*35 U.S.C. 113*) [*Total Sheets* 2]

5. Oath or Declaration [*Total Sheets* 1]
a. ☑ Newly executed (original or copy)
b. ☐ Copy from a prior application (37 CFR 1.63(d))
(for continuation/divisional with Box 18 completed)
i. ☐ DELETION OF INVENTOR(S)
Signed statement attached deleting inventor(s) name in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).

6. ☐ Application Data Sheet. See 37 CFR 1.76

7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program *(Appendix)*
8. Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)
a. ☐ Computer Readable Form (CRF)
b. Specification Sequence Listing on:
i. ☐ CD-ROM or CD-R (2 copies); or
ii. ☐ Paper
c. ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

9. ☑ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(b) Statement *(when there is an assignee)* ☑ Power of Attorney
11. ☐ English Translation Document *(if applicable)*
12. ☐ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
13. ☐ Preliminary Amendment
14. ☑ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
16. ☐ Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17. ☑ Other: Check for filing fee of $425.00

18. If a CONTINUING APPLICATION, *check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:*

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: .....

Prior application information: *Examiner* _____ *Art Unit:* _____

For CONTINUATION OF DIVISIONAL APPS only; The 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. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

☐ Customer Number: _____ *OR* ☑ Correspondence address below

Name	Pavel POGODIN, Esq.				
Address	617 North Delaware Street				
City	San Mateo	*State*	California	*Zip Code*	94401
Country	USA	*Telephone*	650-954-6857	*Fax*	650-342-4403

Name (Print/Type)	Pavel Pogodin, Esq.	*Registration No. (Attorney/Agent)*	48,205
Signature		*Date*	10/20/2003

This collection of information is required by 37 CFR 1.53(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 1.14. 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: Mail Stop Patent Application, 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.

PTO/SB/17 (10-03)
Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☑ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT	($) 425.00

Complete If Known	
Application Number	Unknown
Filing Date	10/20/2003
First Named Inventor	Wang Cheng-Yu
Examiner Name	Unknown
Art Unit	Unknown
Attorney Docket No.	N0116/PP/HH

METHOD OF PAYMENT *(check all that apply)*

☑ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number
Deposit Account Name

The Director is authorized to: *(check all that apply)*

☐ Charge fee(s) indicated below ☐ Credit any overpayments

☐ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee	385.00
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) ($) 385.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below	Fee Paid
Total Claims	11	-20** = 0	x	9	= 0
Independent Claims	1	- 3** = 0	x	43	= 0
Multiple Dependent				0	= 0

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	88	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	88	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($) 0.00

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for *ex parte* reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	40.00
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid SUBTOTAL (3) ($) 40.00

SUBMITTED BY

(Complete *(if applicable)*)

Name (Print/Type)	Pavel POGODIN, Esq.	Registration No. (Attorney/Agent)	48,205	Telephone	650-954-6857
Signature				Date	10/20/2003

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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RAJIV PATEL
FENWICK AND WEST LLP
801 CALIFORNIA ST
SILICON VALLEY CTR
MOUNTAIN VIEW, CA 94041

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AUG 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Peter D. Hirsch et al	:	
Application No. 10/690,255	:	DECISION ON PETITION
Filed: October 20, 2003	:	TO WITHDRAW
Attorney Docket No. PA3663US	:	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 6, 2006.

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

A review of the file record indicates that the power of attorney to Rajiv Patel has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record remains unchanged, which is the first address indicated below.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Carr & Ferrell LLP
2200 Geng Road
Palo Alto, CA 94303

cc: Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PETER HOLLAND
CARR & FERRELL, LLP
2200 GENG ROAD
POLO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Application of :
Peter D. Hirsch et al :
Application No. 10/690,255 :
Filed: October 20, 2003 :
Attorney Docket No. PA3663US :

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 30, 2007.

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

A review of the file record indicates that the power of attorney to Peter L. Holland of Carr & Ferrell has been revoked by the assignee of the patent application on February 26, 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 first below-listed address until otherwise notified by applicant.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Schmeiser, Olsen & Watts
22 Century Hill Drive
Suite 302
Latham, NY 12110

cc: John Pivnichny
Global Services Intellectual Property Law Consulting
Dept. IQ0A Bldg. 040-3
1701 North Street
Endicott, NY 13760

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United States Patent and Trademark Office
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JAN 22 2008

OFFICE OF PETITIONS

BUCHANAN INGERSOLL PROFESSIONAL CORPORATION
301 GRANT STREET, 20th FLOOR
PITTSBURGH, PA 15219-1410

In re Application of :
ERITJA, et al. :
Application No. 10/690,274 : DECISION ON PETITION
Filed: October 21,2003 : TO WITHDRAW
Attorney Docket No. **030577** : 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 29, 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 Duane A. Stewart III on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RAMON ERITJA**
VIRIATO 43. 5. 1
BARCELONA, SPAIN E-08014

cc: **MARTIN MUNZER**
CYGENE LABORATORIES, INC.
7786 WILES ROAD
CORAL SPRINGS, FL 33067

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of :
HILTZIK et al. :
Serial Number: 10/690,298 :
Filed: October 21, 2003 :
For: METHOD FOR REDUCING EMISSIONS FROM :
EVAPORATICE EMISSIONS CONTROL :
SYSTEMS :

FEB 03 2005

PETITION UNDER
M.P.E.P.708.02 V

This is in response to the petition filed October 21, 2003, requesting that the above-identified application be granted Special Status under Sections 708.02 V of the MPEP and 37 CFR 1.102 (**no fee required**).

The instant application is a reissue application. As all reissue applications are granted Special Status (see MPEP 708.01), the petition is considered to be moot.

The petition is **DISMISSED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Meadwestvaco Corrporation
Regional Office Building
PO Box 118005
Charleston, SC 29423-8005

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
10/690,317	10/20/2003	2812	1132	2003-0551.00/US	14	21	7

CONFIRMATION NO. 4522

CORRECTED FILING RECEIPT

David J. Paul
Mail Stop 1-525
8000 S. Federal Way
Boise, ID 83716-9632

OC000000011990080

Date Mailed: 03/01/2004

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

Applicant(s)

Hyun T. Kim, Boise, ID;
Byron N. Burgess, Boise, ID;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/20/2004

Projected Publication Date: 04/21/2005

Non-Publication Request: No

Early Publication Request: No

Title

Formation of self-aligned contact plugs

Preliminary Class

438

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

GRANTED

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

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

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

NOT GRANTED

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

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FEB 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Lawrence J. Bassuk
Texas Instruments Incorporated
P.O. Box 655474, M/S 3999
Dallas, TX 75265

In re Application of:
Lee D. WHETSEL
Application No. 10/690,325
Filed: October 21, 2003
For: SCANNING A PROTOCOL SIGNAL INTO AN IC FOR PERFORMING A CIRCUIT OPERATION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renew petition, filed on October 21, 2003, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of October 21, 2003 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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PATENT DEPARTMENT - 53051
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of
Gilad Israel Elbaz, et al
Application No. 10/690,328
Filed: October 21, 2003
Attorney Docket No. 53051/288071

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 8, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Kilpatrick Stockton LLP has been revoked by the assignee of the patent application on March 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April Wise
Petitions Examiner
Office of Petitions

cc: JOHN A. DRAGSETH, ESQ.
FISH & RICHARDSON, P.C.
60 SOUTH SIXTH STREET,
SUITE 3300
MINNEAPOLIS, MN 55402

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/06/07

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/690339** Patent No.: **6940181**

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: _____

_____

_____

_____

_____

Steven Loke — SPE

2818 — Art Unit

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DLA PIPER US LLP
153 TOWNSEND STREET
SUITE 800
SAN FRANCISCO CA 94107-1957

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MAR 10 2009

OFFICE OF PETITIONS

Applicant: Godkin
Appl. No.: 10/690,340
Filing Date: October 21, 2003
Title: FLAT LINEAR VOICE COIL ACTUATOR WITH PLANAR COILS AND A SPRING-TYPE CHARACTERISTIC
Attorney Docket: 351999-991310
Pub. No.: US 2004/0155741 A1
Pub. Date: August 12, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 25, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains an error on the front page of the publication in the spelling of inventor's last name "Godkin" which appears as "Godin".

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 request for corrected publication, received on June 25, 2008, was not timely filed under 37 CFR 1.221(b).

The error noted by requestor with respect to the misspelled name is not an Office error. The patent application publication does not include a mistake with respect to the inventor's name.

[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).

Even if the name had been misprinted, the misspelling of inventor Godkins' name as "Godin" does not affect the understanding of the application. The mistake does affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on June 25, 2008, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

On January 29, 2004 and May 5, 2004, Filing Receipts were mailed by the Office, which listed the inventor's name. To avoid this type of problem in the future, applicant's representative should review the Filing Receipt, correct error on the Oath and make a request for a Corrected Filing Receipt.

Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office 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.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

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

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

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of	:	
Ethan **WILLIFORD**	:	
Application No. 10/690,399	:	DECISION GRANTING PETITION
Filed: October 20, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2269-5864US (02-1549.00/U	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 28, 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 August 23, 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 2814 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
Petitions Examiner
Office of Petitions

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

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TECHNOLOGY CENTER 3600

Connolly Bove Lodge & Hutz, LLP
P.O. Box 2207
Wilmington, DE 19899

In re Application of
Maupin et al.
Application No. 10/690,411
Filed: October 21, 2003
For: APPARATUS FOR APPLYING CHEMICALS TO RODENTS

DECISION ON PETITION REGARDING REQUEST TO WITHDRAW FINALITY UNDER 37 CFR 1.181

This is in response to applicants' petition under 37 CFR 1.181 filed October 26, 2005 requesting withdrawal of the finality of the Office action mailed July 5, 2005 as being premature.

The petition is **GRANTED.**

Applicants allege that the final rejection mailed July 5, 2005 is premature because the new grounds of rejection contained in the Office action was not necessitated by amendment.

A review of the record reveals that a first Office action was mailed November 18, 2004 in which the examiner rejected claims 1-5 and 10 under 35 U.S.C. 102(b) as being anticipated by Talley and claims 6 and 7 under 35 U.S.C. 103(a) as being unpatentable over Tally. Claims 1, 9 and 10 were also rejected under 35 U.S.C. 102(b) as being anticipated by Crawford. A response was filed April 18, 2005 in which claim 1 was amended to included the limitations of cancelled claims 2, 3 and 5. Claim 1 was also amended to remove the limitation "and having said chemical on said flexible web, whereby said web contacts rodents passing thereunder." Additionally, new claims 12-27 were added. A final Office action was mailed July 5, 2005 rejecting claims 1, 4 and 6-27 under 35 U.S.C. 102(b) based upon a pubic use or sale of the invention. An after final amendment was filed on November 10, 2005 including a petition for a one month extension of time.

In the petition, applicants allege that the amendment filed April 18, 2005 narrowed the scope of the claims. Claim 5, as originally filed, is dependent upon claims 3, 2 and 1. In the amendment filed April 18, 2005, applicants narrowed the scope of claim 1 by incorporating the limitations of claims 2, 3 and 5. However, applicants also removed the recitation "and having said chemical on said flexible web, whereby said web contacts rodents passing thereunder" which was originally in claim 1. Thus, claim 1, as amended, is in essence claim 5, as originally filed, minus the deleted limitation. Therefore, applicants have broaden the scope of the claim.

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 grounds of rejection that is neither necessitated

by applicants' 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).

Since the amended claims are broader in scope than the claims, as originally filed, the examiner should have maintained the rejection from the first Office action. However, the examiner applied a new grounds of rejection. Although applicants amended claim 1, the amendments to the claims did not necessitate the new grounds of rejection.

The finality of the Office action mailed July 5, 2005, but not the action itself, is hereby vacated. The Office action of July 5, 2005 is now considered to be non-final and the shortened statutory period for response continues to run FOUR (4) MONTHS from the date of mailing of the Office action, i.e., four (3) months from July 5, 2005. Furthermore, the amendment after final rejection filed November 10, 2005 will be entered.

The application will be forwarded to the Head Supervisory Legal Instruments Examiner for removal of the "final" status from the July 5, 2005 action and for entry of the November 10, 2005 amendment and then to the examiner for consideration of the amendments. However, if the amendment raises a new ground of rejection, the next Office action will be made FINAL.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

DH/tl: 11/23/2005

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THOMPSON E. FEHR
SUITE 300
GOLDENWEST CORPORATE CENTER
5025 ADAMS AVENUE
OGDEN UT 84403

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OFFICE OF PETITIONS

In re Application of :
Steven S. Larsen :
Application Number: 10/690421 : DECISION ON PETITION
Filing Date: 10/20/2003 :
Attorney Docket Number: PLARSS :

This is a decision on the petition filed on November 21, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on April 2, 2007, for failure to timely file an Appeal Brief in response to the Notice of Appeal filed on February 1, 2007, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on September 20, 2007.

An appeal brief and the required fee have been filed as the required reply.

---

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

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

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

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

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

This application is being referred to Technology Center Art Unit 3732 for review of the appeal brief.

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

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of
Junkang J. Liu et al :
Application No. 10/690,425 : ON PETITION
Filed: October 21, 2003 :
Attorney Docket No. 55421US023 :

This is a decision on the petition filed January 13, 2005, requesting withdrawal of the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot.**

Unfortunately, the petition did not reach the appropriate official for decision within sufficient time to avert issuance of the application into a patent. Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue.** Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information.

The information disclosure statement (IDS) has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(l).

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

The patented file is being referred to Files Repository.

Karen Creasy

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

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David C. Jenkins
Eckert Seamans Cherin & Mellott, LLC
44th Floor
600 Grant Street
Pittsburgh PA 15219

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JUN 16 2006

OFFICE OF PETITIONS

In re Application of :

TAYLOR :
Application No. 10/690,430 : DECISION ON PETITION
Filed: October 21, 2003 : TO WITHDRAW
Attorney Docket No. 287692-00030 : 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 21, 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 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.

The Revocation and Power of Attorney filed on August 18, 2004 has not been accepted. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that the complete chain of title from the inventor to the current assignee (3HBFM, LLC), including all reel and frame numbers where the recorded assignment appears in the assignment records at the USPTO, has not been provided. Only the reel and frame number for the assignment between REO SPLINELINE and 3HBFM, LLC has been included.

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- 4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: WINSTON & STRAWN LLP
1700 K STREET, N.W.
WASHINGTON, DC 20006

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David C. Jenkins
Eckert Seamans Cherin & Mellott, LLC
44th Floor
600 Grant Street
Pittsburgh PA 15219

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of :

TAYLOR :
Application No. 10/690,430 :
Filed: October 21, 2003 :
Attorney Docket No. 287692-00030 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 22, 2006.

The request is **APPROVED**.

A review of the file record indicates that David Jenkins and those practitioners associated with Customer Number 03705: (1) do not have power of attorney in this patent application but (2) have been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, David Jenkins and those practitioners associated with Customer Number 03705 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest. As stated in the previous decision mailed June 16, 2006, the Revocation and Power of Attorney filed on August 18, 2004 has not been accepted. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that the complete chain of title from the inventor to the current assignee (3HBFM, LLC), including all reel and frame numbers where the recorded assignment appears in the assignment records at the USPTO, has not been provided. Only the reel and frame number for the assignment between REO SPLINELINE and 3HBFM, LLC has been included. All future communications from the Office will be directed to the first named signing inventor (since 3HBFM, LLC has not properly intervened) at the first copied address below until otherwise properly notified by the applicant. Applicant is reminded that there is no attorney of record at this time.

The response to the non-final action received on May 15, 2006 will be forwarded to Group Art Unit 3738 for further consideration.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: BRETT TAYLOR
6300 WYDOWN BLVD
CLAYTON, MO 63105

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

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TRANSPACIFIC LAW GROUP
617 NORTH DELAWARE STREET
SAN MATEO CA 94401

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OFFICE OF PETITIONS

In re Application of

HO, Jan-Ming et al.
Application No. 10/690,440
Filed: October 20, 2003
Attorney Docket No. **N0114/PP/HH**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 26, 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 Michelle R. Eason at 571-272- 4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **VENABLE LLP**
RAYMOND J. HO
575 7TH STREET NW
WASHINGTON, DC 20004-1601

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SUITE 300
AKRON OH 44311-1076

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OFFICE OF PETITIONS

In re Application of :
Bennie L. Farmer :
Application No. 10/690,459 : DECISION ON PETITION
Filed: October 20, 2003 :
Attorney Docket No. 116897.00022 :
:

This is a decision on the petition under 37 CFR 1.10(d), filed November 15, 2004, requesting that the above-identified application be accorded a filing date of October 20, 2003, rather than the presently accorded filing date of October 21, 2003.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in the United States Postal Service (USPS) Express Mail Service on October 20, 2003, pursuant to the requirements of 37 CFR 1.10. Specifically, petitioner states that an Express Mail envelope (Label No. EV415640363), containing the application, was accepted by a United States Postal Service Courier on October 20, 2003, before the last scheduled pickup, at the offices of Hahn Loeser and Parks in Akron, Ohio. However, the date-in indicated on the label is October 21, 2003. The Express Mail Label No. EV415640363 was placed on the original application papers located in the official file.

In support, the present petition is accompanied by the Declaration of Ann Cooper, an Express Mail Supervisor at the USPS in Akron, Ohio. Ms. Cooper certifies that the correct mailing date for the Express Mail package bearing Label No. EV415640363, is October 20, 2003.

In view of the corroborating evidence of the USPS, it is concluded that the correct date of deposit in Express Mail service is October 20, 2003. Therefore, the application may be accorded a filing date of October 20, 2003.

The petition is **granted**. The $130.00 petition fee is not necessary and will be refunded to Deposit Account No. 15-0450.

The application is being forwarded to the Office of Initial Patent Examination for **correction of the filing date to October 20, 2003, and the mailing of a corrected filing receipt.**

Telephone inquires specific to this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/25/09

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10690462 Patent No.: 7371766

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

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: _____

1624

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Monique A. Vander Molen
Gardere Wynne Sewell, LLP
3000 Thanksgiving Tower
Suite 3000, 1601 Elm Street
Dallas, TX 75201-4767

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APR 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Liping Tang et al.	:	
Application No. 10/690,466	:	DECISION ON PETITION
Filed: October 21, 2003	:	
Attorney Docket No. 124263-1010	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed December 11, 2006 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 12, 2007.

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

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

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

This application is being referred to Technology Center AU 1614 for appropriate action by the Examiner in the normal course of business on the reply received September 28, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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KYOUNG HAE KIM
146 DOUGLAS ST. #10
LOS ANGELES, CA 90026

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MAR 27 2006

OFFICE OF PETITIONS

In re Application of :
Kyoung Hae Kim :
Application No. 10/690,473 : ON PETITION
Filed: October 21, 2003 :
For: HALF AUTO AIR BLEEDING CYLINDER :

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 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 November 3, 2004 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 4, 2005.

The instant petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentionally delay have been received. Accordingly, the reply to the non-final Office action of November 3, 2004 is accepted as having been unintentionally delayed.

This matter will be referred to Technology Center AU 3683.

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

Wan Laymon
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/2/04

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/690475 Patent No.: 6883559

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**.

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: _____

GREGORY HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE

3751
Art Unit

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JEFFREY P. COOK
MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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FEB 17 2005

OFFICE OF PETITIONS

In re Application of :
Jay V. Clark et al :
Application No. 10/690,488 : ON PETITION
Filed: October 20, 2003 :
Attorney Docket No. 1165.54USC6

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 3, 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 Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 3713 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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KEATY PROFESSIONAL LAW CORPORATION
THOMAS S. KEATY
2 CANAL STREET
2140 WORLD TRADE CENTER
NEW ORLEANS, LA 70130

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DEC 0 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Michael Whitsett	:	
Application No. 10/690489	:	DECISION ON
Filing or 371(c) Date: 10/21/2003	:	PETITION
Attorney Docket Number: W04-1041	:	

This is a decision in response to the petition under 37 CFR 1.137(a), filed September 5, 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 Office communication mailed August 2, 2005 and September 21, 2005[1]. The Office communication set one (1) month period for reply. No response having been received, the application became abandoned on October 21, 2005. A Notice of Abandonment was mailed August 22, 2006.

Applicant files the instant petition wherein Applicant avers that a timely reply to the Notice was filed and received in this Office as evidenced by Applicant's return-receipt postcard. In support of this assertion, Applicant files a copy of his return-receipt postcard, a review of which acknowledges receipt by this Office of a "Response to Office Action dated 8/2/05".

In view of the above, the petition is granted. The application will be referred to Technology Center Art Unit 3673 for processing of the Response, and for continued examination in due course.

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

Derek L. Woods
Attorney
Office of Petitions

[1] The September 21, 2005 Notice re-set the reply period for the August 2, 2005 Notice.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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OGILVY RENAULT LLP
1, Place Ville Marie
SUITE 2500
MONTREAL, QC H3B 1R1
CANADA

Mail Date: 05/11/2010

Applicant	: John Anthony Pacione	: DECISION ON REQUEST FOR
Patent Number	: 7614332	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/690,512	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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DW Aug-07

RABIN & BERDO, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON DC 20005

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AUG 28 2007

OFFICE OF PETITIONS

In re Application of :
Noriyuki Miura :
Application Number: 10/690579 :
Filing Date: 10/23/2003 :
Attorney Docket Number: MAE 296 :

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition, filed on 22 June, 2007, to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to timely reply to the non-final Office action mailed on 4 October, 2006, which set a three (3) month shortened statutory period for reply. No response having been received, Notice of Abandonment was mailed on 19 June, 2007.

Petitioners assert that a timely and proper response was in fact filed on 22 December, 2006. In support of the petition, petitioners submitted a copy of a date-stamped post card receipt acknowledging receipt of an amendment in the United States Patent and Trademark Office (Office) on 22 December, 2006. Additionally, petitioners have submitted a copy of the previously-filed amendment with the present petition.

Petitioners' response to the non-final Office action mailed on 4 October, 2006, is not of record in the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the reply to the non-final Office action was received in the Office but was not matched with the application file.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file will be referred to the Technology Center's technical support staff for entry of the response. Thereafter, the application file will be referred to the examiner for action in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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MAR 18 2010

Staas & Halsey, LLP
Suite 700
1201 New York Avenue, N.W.
Washington, DC 20005

In re Application of
Hideo Sugimori
Application No. 10/690,584
Filed: October 23, 2003
For: OPERATIONS MANAGEMENT POLICY DISTRIBUTING METHOD, OPERATIONS MANAGEMENT POLICY DISTRIBUTING APPARATUS, AND OPERATIONS MANAGEMENT DISTRIBUTING PROGRAM

: DECISION ON THE PETITION
: REGARDING REQUEST TO
: WITHDRAW REQUIREMENT
: FOR RESTRICTION

Applicant's petition under 37 CFR 1.144, filed October 26, 2009, requests the supervisor to mandate that the examiner reinstate claim 11, withdrawn by original presentation in the Office action of August 19, 2008.

The petition is **GRANTED**.

A review of the file record indicates that in response to an amendment by the applicant filed August 19, 2008 which added claim 11, the examiner required restriction between the originally filed claims 1-10 and newly filed claim 11. Because the applicant had already received an examination on the merits of claims 1-10, the examiner indicated that this invention had been constructively elected by original presentation. In the restriction the examiner required restriction between Invention I (Claims 1-10) and Invention II (Claim 11) as subcombinations usable together.

On March 9, 2009, the applicant argued that the restriction was improper, that the constructive election was improper and that claim 11 should be examined with claims 1-10. The examiner was not persuaded, and in the Office action of July 24, 2009 made the requirement for restriction final, indicating that "...Claim 11 has separate utility such as the manager is provided with a policy rating based upon a number of clients (now amended as "computers") operating under the corresponding policy, overall operation time of the corresponding policy among the plurality of clients (now amended as "computers") , and a number of applications running on the client (now amended as "computers") to be managed, and does not require the sending back the created policy list to a manager as required in subcombination I...".

The applicant filed the instant petition which argues that the above-noted inventions are not considered independent because they are not "unconnected in design, operation and effect". Applicant also argues that the claims are not distinct because "...both claim 1 and claim 11 are related to a manager managing a network of computers and the manager's selection of a management selection which is to be sent to a computer to be managed. Claim 11 simply contains an additional limitation that is not found in claim 1, which is similar to the claim limitation found in dependent claim 4..."

Initially, looking at the original restriction of August 19, 2008, it is noted that in order for two inventions to be restricted as subcombinations usable together, they are usually only restrictable "when the subcombinations do not overlap in scope and are not obvious variants". Also, "restriction is only proper when there would be a serious burden if restriction were not required, as evidenced by separate classification, status or field of search". MPEP 806.05(d).

In this case, it is clear that the inventions of claim 1 and claim 11 fail to qualify as not overlapping in scope, as the majority of method steps recited in claim 11 are identical, (or substantially so) to those recited in claim 1. Furthermore, the limitations in claim 11 that are not present in claim 1 appear to be similar to those existing in claim 4. The examiner, in the original restriction, listed five possible reasons as to why there may be a serious burden if restriction was not required, however, never indicated which of these reasons applied to these inventions, and specifically how they might apply.

Given the above facts, the inventions of claims 1-10 and claim 11 are not seen as properly defined as subcombinations usable together, and have not been shown to be distinct so as to be able to support separate patents. Furthermore, no sufficient showing of serious burden has been demonstrated by the examiner.

This application is being returned to the examiner to issue a new non-final Office action that includes an examination on the merits of all pending claims 1-11, consistent with this decision.

The petition of October 26, 2009 is **GRANTED**.

Any questions or comments with respect to this decision should be forwarded to Quality Assurance Specialist Steven N. Meyers at (571) 272-6611.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

snm/snm: 3/16/10

SM

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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JUL 09 2007

OFFICE OF PETITIONS

In re Application of
Jean-Paul Steib, et. al.
Application No. 10/690,585
Filed: October 23, 2003
Attorney Docket No. 7792P004

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), on June 12, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Restriction Requirement mailed October 2, 2006. A Notice of Abandonment was mailed on April 13, 2007.

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) an election; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed on June 12, 2007 has been accepted and made of record.

This application file is being referred to Technology Center Art Unit 3733, 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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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/690,585	10/23/2003	Jean-Paul Steib	0529-1017

CONFIRMATION NO. 5972

8791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

OC000000024702729

Date Mailed: 07/06/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/12/2007.

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.

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

ATTORNEY/APPLICANT COPY

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NOV 21 2005

~~OCT 21 2005~~

SIDLEY AUSTIN BROWN & WOOD LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS TX 75201

In re Application of	:
Manfred Bohn et al	:
Serial No.: 10/690,597	: PETITION TO MAKE SPECIAL
Filed: October 23, 2003	:
Attorney Docket No.: 3804.1590-02	:

This is in response to the petition filed October 23, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number 703-872-9306.

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

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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY, MD 21043

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NOV 21 2006

OFFICE OF PETITIONS

In re Application of
Dar-Fu Tai et al.
Application No. 10/690,600
Filed: October 23, 2003
Attorney Docket No: MR957-1411

ON PETITION

This is a decision on the petition filed October 17, 2006, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513, which is treated under 37 CFR 1.181.

The petition is **GRANTED**.

This application became abandoned on December 29, 2005, for failure to file a timely response to the Office Communication mailed November 28, 2005, which set a one (1) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed August 18, 2006. Petitioner asserts that the Office Communication was never received.

The file record discloses that the Office Communication was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment. Petitioner has provided a copy of the docket report, wherein receipt of the Office Communication mailed November 28, 2005 would have been filed, had it been received. To further show that the Office Communication mailed November 28, 2005 was not received, petitioner also explains that after searching the file jacket it was concluded that no correspondence was received for this matter from the USPTO,

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the Office Communication mailed November 28, 2005, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Communication.

In view of the facts set forth in the petition, it is concluded that the Office Communication mailed November 28, 2005 was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 1631 for a re-mailing of the Office Communication originally mailed November 28, 2005 and for a restarting of the period for response.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OMORI & YAGUCHI USA, LLC
EIGHT PENN CENTER, SUITE 1901
1628 JOHN F. KENNEDY BOULEVARD
PHILADELPHIA, PA 19103

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NOV 20 2006

OFFICE OF PETITIONS

In re Application of :
Kiyohito : DECISION ON PETITION
Application No. 10/690,603 :
Filed: October 23, 2003 :
Docket No.: Y06S010 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 3, 2006, 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 June 28, 2005. The non-final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed March 17, 2006.

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

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

This application is being forwarded to Technology Center 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

VOLENTINE FRANCOS & WHITT, PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE, SUITE 1260
RESTON, VA 20190

In re Application of
Takaaki Sasaki
Application No. 10/690,627
Filed: October 23, 2003
Attorney Docket No. PNET.011D3

ON PETITION

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

The application became abandoned for failure to pay the issue fee on or before November 21, 2005. This decision precedes the mailing of a Notice of Abandonment.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is GRANTED.

The application is being referred to the Office of Publications 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 (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: -

DATE : October 1, 2009

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/690639 Patent No.: 7485303 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 – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: A petition to add inventor pending. Adding new inventors may raise art issues/DP issues and will require new search.

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

SPE

1644
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

March 11, 2010

Lori M. Brandes
1100 New York Avenue, N.W.
Washington, DC 20005-3934

Patent No: 7,485,303 B2
Application No: 10/690,639
Applicant: Philip Juan Lopez de Silanes, et al.
Issued: February 3, 2009
Title: **PHARMACEUTICAL COMPOSITION OF F(AB')2 ANTIBODY FRAGMENTS**

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 error complained of on the Title Page, adding another inventor per the examiner "A petition to add inventor pending. Adding new inventors may raise art issues/DP issues and will require a new search".

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

/Virginia Tolbert/
Virginia Tolbert
For Mary F. Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAY 2 2 2008

OFFICE OF PETITIONS

KIM LUNA
1430 WAUKEGAN ROAD
MCGAW PARK, IL 60085-6787

In re Application of :
Shiping Wang et al :
Application No. 10/690,653 : ON PETITION
Filed: October 21, 2003 :
Attorney Docket No. GL-6171 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 17, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 13, 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) were obtained. Accordingly, the above-identified application became abandoned on October 14, 2007.

The petitioner erroneously identified the action as "final" but that under 37 CFR 41.31 a Notice of Appeal is proper since the claims were twice rejected. 37 CFR 41.31(a)(1) indicates that applicant can appeal if the claims have been twice rejected even if the second rejection was not a final rejection, see MPEP 1204(I).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1050 extension of time submitted with the petition on January 17, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's deposit account.

The file does not indicate a change of address has been submitted, although the address given for the customer number 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 for the customer number; however, the Office will mail all future correspondence solely to the address of record.

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

This matter is being referred to Technology Center AU 1794 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Morgan & Finnegan, LLP
3 World Financial Center
New York, NY 10281-2101

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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JUN 12 2006

OFFICE OF PETITIONS

In re Application of :
Han :
Application No. 10/690,665 :
Filed: October 23, 2003 :
Attorney Docket No. 4290-4 :
For: METHOD FOR AVOIDING POLYSILICON FILM OVER ETCH ABNORMAL

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 17, 2006, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioners are advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the Notice o f Allowance and Fee(s) Due, mailed August 29, 2005, which set a three month period for reply. No reply being received, the application became abandoned on November 30, 2005. A Notice of Abandonment was mailed on January 18, 2006.

A grantable petition pursuant to 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. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy requirements (1) and (3) above.

With respect to (1) above, as stated in 37 CFR 1.137(c), " In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee." Petitioners may request that the issue fee and publication fee be reapplied to any future fees due.

With respect to (3) above, Bob Tsai, Chairman of United Microelectronics Corporation, provided a statement regarding the nature of the delay in responding to the August 29, 2005 Notice of Allowance and Fee(s) Due. Mr. Tsai stated that as a result of a lack of the inventors' timely provided information and adequate consultation with the assignee's patent agents and related errors and/or mistaken beliefs, the assignee's U.S. attorney was instructed not to pay the issue fees.

As stated in MPEP 711.03(c)IIC1,"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). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See In re Maldague, 10 USPQ2d 1477,1478 (Comm'r Pat. 1988)."

The intentional abandonment of an application precludes revival under 37 C.F.R. § 1.137(b), even when that application became abandoned by way of a good faith error on counsel's part. See In re Maldague, 10 USPQ2d 147, 1478 (Comm'r Pat. 1988). The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987).

Delay resulting from a failure in communication between a petitioner and his or her registered practitioner is a delay binding upon petitioner. See In re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988); Ray v. Lehman, 55 F.3d 606, 610, 34 USPQ2d 1786, 1789 (Fed. Cir. 1989).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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MAR 13 2007

OFFICE OF PETITIONS

In re Application of :
Han :
Application No. 10/690,665 :
Filed: October 23, 2003 :
Attorney Docket No. 4290-4 :
For: METHOD FOR AVOIDING POLYSILICON FILM OVER ETCH ABNORMAL

DECISION ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed July 28, 2006, to revive the above-identified application.

This application became abandoned for failure to timely reply to the Notice of Allowance and Fee(s) Due, mailed August 29, 2005, which set a three month period for reply. No reply being received, the application became abandoned on November 30, 2005. A Notice of Abandonment was mailed on January 18, 2006.

Applicant has submitted a reply in the form of a RCE and amendment, the issue fee, and the publication fee, an acceptable statement of the unintentional nature of the delay in responding to the August 29, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.

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

After the mailing of this decision the application will be returned to Technology Center A.U. 1763 for further examination.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Matthew Lerner	: DECISION ON REQUEST FOR
Patent Number	: 7634729	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/690,669	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **367** 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

CHENG KUN CHEN
235 Chung-Ho
Box 8-24
Taipei TW TAIWAN

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Cheng-Kun Chen :
Application No. 10/690,673 : ON PETITION
Filed: October 23, 2003 :
Attorney Docket No. 340-010USP

This is a decision on the petition under 37 CFR 1.137(a), filed October 25, 2006, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.137(b) filed October 25, 2006, and in duplicated on November 1, 2006.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply to the restriction/ election requirement mailed December 2, 2005, which set a shortened statutory period for reply of one (1) month from its mailing date. No response was received within the allowable period, and the application became abandoned on January 3, 2006. A Notice of Abandonment was mailed on October 19, 2006.

TREATMENT UNDER 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

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

date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks items (1) and (2).

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

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

---

[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that the restriction/election requirement was not received.

As to item (2) above, the fee for the instant petition is $250.00 and did not accompany the petition. Any renewed petition filed must be accompanied by the petition fee in order to be considered grantable.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reasons petitioner's argument must necessarily fail are addressed below.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires to establish nonreceipt of an Office communication must include a statement from the fractioned stating that the Office communication was not received by the practioner 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 practioner's statement.

In this case, where petitioner is a pro se applicant, petitioner may satisfy these requirements by offering a statement that petitioner records where searched, but the Office communication was not found and providing a copy of petitioner's logs showing where the Office communication

---

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

would have been entered if it had been received. A renewed petition under 37 CFR 1.137(a) should provide all the requested evidentiary documents.

Petitioner has also failed to requirements of item (3) above because a successful petition under 37 CFR 1.137(a) requires that petitioner establish 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 1.17(a)--was unavoidable. Petitioner did not account for the nine-month delay in filing the instant petition—the relevant period being from the due date for the reply of January 2, 2006, until the filing of the instant petition on October 25, 2006. The petition under 37 CFR 1.137(a) will not be considered grantable until the entire period of delay is determined to be unavoidable.

TREATMENT UNDER 37 CFR 1.137(b)

The petition under 37 CFR 1.137(b) is granted.

The application file is being directed to Technology Center 3700, GAU 3738 for further processing.

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

December 8, 2008

Raymond D. Smith
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614

Patent No: 7,393,341 B2
Application No: 10/690,685
Applicant: Shigeru Nemoto, et al.
Issued: July 1, 2008
Title: **CYLINDER HOLDER FOR A SYRINGE BARREL WITH REAR SURFACE PROJECTION**

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.

Respecting, the alleged error in omission of priority data, section 119 of 35 U.S.C. requires that both a claim for priority and a certified copy of the foreign application be filed in order that a patent issue with this data. No record can be found of the certified copies for the applications that are mentioned in your request.

In view of the foregoing your request in this matter is hereby **denied**.

Further correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

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

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MAILED
FROM DIRECTORS OFFICE

JUL 21 2004

TECHNOLOGY CENTER 3600

Hinkle & O'Bradovich, LLC
395 Scenic Highway
Lawerenceville, GA 30045

In re application of :
Lawrence W. Weidmeann :
Application No. 10/690,695 :
Filed: October 22, 2003 :
For: DETENTION POND WATER QUALITY APPARATUS AND SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed January 2, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed January 2, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed concurrently with the petition.

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

SNM/vdb: 7/12/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

JUL 21 2004

TECHNOLOGY CENTER 3600

Hinkle & O'Bradovich, LLC
395 Scenic Highway
Lawerenceville, GA 30045

In re application of : **DECISION ON PETITION**
Lawrence W. Weidmeann : **TO MAKE SPECIAL**
Application No. 10/690,695 : **(INFRINGEMENT)**
Filed: October 22, 2003 :
For: DETENTION POND WATER QUALITY APPARATUS AND SYSTEM

This is a decision on the petition under 37 C.F.R § 1.102(d) filed January 2, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed January 2, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed concurrently with the petition.

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

SNM/vdb: 7/12/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 1, 2008

TO SPE OF : ART UNIT ~~3738~~ 1793 (previously 1742)

SUBJECT : Request for Certificate of Correction for Appl. No 10/690717 patent no7329383

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: Column 9 line 28 does not match with Claim 29. The proposed amendment to claim 25 changes the scope of the claim.

/Janelle Morillo/

Roy Van Cing — SPE

1793 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : December 4, 2009

Serial no. : 10/9690717
Patent No. :7,329,383 B2
Patent Issued : February 12, 2008
Inventor(s) : Johnathan S. Stinson
Title :ALLOY COMPOSITIONS AND DEVICES INCLUDING THE COMPOSITIONS

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..

Respecting the alleged error(s) noted in your request, column 9, line 28 does not match with claim 29. The proposed amendment claim 25, changes the scope of the claim.

In view of the forgoing your request is hereby denied.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decision and Certificate
Of Correction Branch
(571)272-0423

Fish & Richardson PC
P.O. Box 1022
Minneapolis, MN 55440-1022

MD/mt

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DIW Nov-05

Paper No. 13

GIOK DJIEN GO
PFAHLGRABENSTRASSE 45
D-65510 IDSTEIN
GERMANY

COPY MAILED

NOV 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Giok Djien	:	
Application No. 10/690,740	:	ON PETITION
Filed: 10 October, 2003	:	
Atty Docket No. G6A1	:	

This is a decision on the paper filed on 16 October, 2005, which is treated as a petition to withdraw the holding of abandonment.

This application became abandoned on 23 November, 2004, for failure to file a proper reply to the Notice of Non-Compliant Amendment mailed on 22 October, 2004, which set a one (1) month period for reply. On 20 November, 2004, petitioner filed a reply to the Notice mailed on 22 October, 2004, but the reply did not meet the requirements of 37 CFR 1.121, and a Failure to Acceptably Respond to Notice of Non-Compliant Amendment was mailed on 24 February, 2005, stating that the period for reply set forth in the Notice of Non-Compliant Amendment continues to run, and that extensions of time of up to five (5) months could be obtained. A reply was filed on 12 April, 2005. On 4 October, 2004, a Notice of Abandonment was mailed, stating that the replies filed on 10 November, 2004, and 12 April, 2005, do not constitute a proper reply, or a bona fide attempt at a proper reply to the non-final Office action.

Petitioner's contention that the reply filed in response to the Notice mailed on 24 February, 2005, was timely filed is incorrect. The 24 February, 2005, Notice stated:

...

> The period for reply continues to run from the mailing date of the prior Notice of Non-Compliant Amendment...No new time period for reply is provided in this communication.

> If the period for reply set forth in the Notice of Non-Compliant Amendment has expired, this application will become abandoned unless applicant: (1) corrects the deficiency, and (2) obtains an extension of time under 37 CFR 1.136(a). In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in the prior Notice of Non-Compliance Amendment (37 CFR 1.121).
>
> ...

As such, the Failure to Acceptably Respond to Notice of Non-Compliant Amendment stated that the time period set in the prior Notice continued to run. As that Notice set a one (1) month period, the period for reply expired on 23 November, 2004. Extensions of time were available as set forth in the Failure to Acceptably Respond to Notice of Non-Compliant Amendment, however applicant neither requested and paid for any extensions of time nor corrected the deficiency. As such the application is properly held abandoned.

The petition is **DISMISSED.**

The petitioner may want to consider filing a petition to revive under 37 C.F.R. 1.137(b).

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision. Extensions of this time period are available in accordance with the provisions of 37 C.F.R. § 1.136(a).

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

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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GIOK DJIEN GO
PFAHLGRABENSTRASSE 45
D-65510 IDSTEIN
GERMANY

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FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Giok Dien	:	DECISION ON PETITION
Application No. 10/690,740	:	
Filed: 10 October, 2003	:	
Atty Docket No. G6A1	:	

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

The petition is **DISMISSED**.

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

This application became abandoned on 23 November, 2004, for failure to file a proper reply to the Notice of Non-Compliant Amendment mailed on 22 October, 2004, which set a one (1) month

---

[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)).

period for reply. On 20 November, 2004, petitioner filed a reply to the Notice mailed on 22 October, 2004, but the reply did not meet the requirements of 37 CFR 1.121, and a Failure to Acceptably Respond to Notice of Non-Compliant Amendment was mailed on 24 February, 2005, stating that the period for reply set forth in the Notice of Non-Compliant Amendment continues to run, and that extensions of time of up to five (5) months could be obtained. A reply was filed on 12 April, 2005. On 4 October, 2004, a Notice of Abandonment was mailed, stating that the replies filed on 10 November, 2004, and 12 April, 2005, do not constitute a proper reply, or a bona fide attempt at a proper reply to the non-final Office action.

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)).

The petition lacks items (1) and (3).

With regards to item (1), petitioner must file a proper reply to the Notice of Non-Compliant Amendment mailed on 22 October, 2004.

With regards to item (3), petitioner must provide 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.

Petitioner may wish to utilize the attached petition form, which contains the required statement of unintentional delay, when submitting a renewed petition. No further petition fee is due.

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

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64

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D-65510 IDSTEIN
GERMANY

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NOV 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Giok Djien Go	:	
Application No. 10/690,741	:	ON PETITION
Filed: 10 October, 2003	:	
Atty Docket No. G6A3	:	

This is a decision on the paper filed on 16 October, 2005, which is treated as a petition to withdraw the holding of abandonment.

This application became abandoned on 24 March, 2005, for failure to file a proper reply to the Notice of Non-Compliant Amendment mailed on 23 February, 2005, which set a one (1) month period for reply. On 12 April, 2005, petitioner filed an untimely amendment. On 4 October, 2005, a Notice of Abandonment was mailed.

Petitioner has presented no evidence that a reply was timely filed. In this respect, while petitioner argues that he was not timely informed that an extension of time was due, it is noted that while the Office attempts to provide timely notification of an incomplete response, it is under no obligation to due so. Rather, it is petitioner's responsibility to file a complete and timely response.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

The petitioner may want to consider filing a petition to revive under 37 C.F.R. 1.137(b).

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

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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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FROM DIRECTORS OFFICE

DEC 07 2004

TECHNOLOGY CENTER 3600

DOWELL & DOWELL PC
1215 Jefferson Davis Highway
Suite 309
Arlington VA 22202-3124

In re application of : **DECISION ON PETITION**
Gene Carriere, et al. : **TO MAKE SPECIAL**
Application No. 10/690,749 : **(ACCELERATED**
Filed: October 23, 2003 : **EXAMINATION)**
For: DRILLING RIG APPARATUS AND DOWNHOLE TOOL ASSEMBLY SYSTEM AND METHOD

This is in response to the petition filed on August 30, 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).

The petition fails to adequately meet requirement (B) above.

Regarding item (B), the petition fails to include a statement that all claims are directed to a single invention and a statement that applicants are willing to elect without traverse should a restriction or election be required.

For the above stated reason, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

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

RAR: 12/2/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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FROM DIRECTORS OFFICE

JAN 21 2005

TECHNOLOGY CENTER 3000

Ralph A. Dowell
Dowell & Dowell P.C.
2111 Eisenhower Ave., Suite 406
Alexandria, VA 22314

In re application of
Gene Carriere, et al.
Application No. 10/690,749
Filed: October 23, 2003
For: DRILLING RIG APPARATUS AND DOWNHOLE TOOL ASSEMBLY SYSTEM AND METHOD

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the renewed petition filed on December 21, 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.

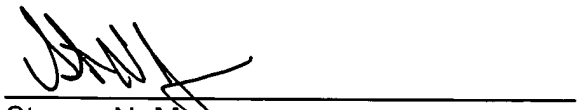
The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to 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**.



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

SNM/jwk: 01/12/05

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United States Patent and Trademark Office
P.O. Box 1450
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James M. Singer
Pepper Hamilton LLP
One Mellon Center, 50th Floor
500 Grant Street
Pittsburgh PA 15219

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DEC 13 2007

OFFICE OF PETITIONS

In re Application of :
Steven W. Webb et al : ON PETITION
Application No. 10/690,761 :
Filed: October 22, 2003 :
Attorney Docket No.
128346-60701

This is a decision on the petition under 37 CFR 1.137(b), filed July 23, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to submit formal drawings on or before June 21, 2007 in reply to the Notice of Allowability, mailed March 21, 2007, which set a period for reply of three (3) months. Accordingly, this application became abandoned on June 22, 2007. A Notice of Abandonment was mailed on July 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of replacement 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 March 21, 2007 is accepted as being unintentionally delayed.

This application is being referred to the Office of Data Management for further processing in accordance with this decision accepting the unintentionally delayed submission of drawings.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218 or to the Office of Petitions Help Desk at (571) 272-3282 after January 3, 2008.

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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ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of
Whitman et al.
Application No. 10/690,767
Filed: October 22, 2003
Attorney Docket No. A01458

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 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 July 11, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on October 12, 2006. A Notice of Abandonment was mailed on May 18, 2007.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. 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 1700 for further processing.

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

Charlema R. Grant

Petitions Attorney

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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GOFF PATENT LAW
8000 N.E. PARKWAY DRIVE, SUITE 200
VANCOUVER, WA 98662

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SEP 15 2008

In re Application of :
Cooper et al. :
Application No. 10/690,785 : DECISION ON PETITION
Filed: October 21, 2003 :
Attorney Docket No. 0013-00022-04 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 7, 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 Notice of Allowance mailed October 5, 2004, which set a shortened statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 6, 2005. A Notice of Abandonment was mailed May 5, 2005.

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

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

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

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

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

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

As to Period (1):

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

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over three 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 January 6, 2005. 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 Glenn C. Brown, P.C. was counsel of record at the time of abandonment, they should explain why this application became abandoned while it was under their control and what efforts were made to further reply of itself and with whom this matter was discussed outside of Glenn C. Brown, P.C. 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), Glenn C. Brown, P.C. and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Glenn C. Brown, P.C., 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 three 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 Glenn C. Brown, P.C. 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).

Additionally, the Power of Attorney submitted March 7, 2008 has been accepted and a copy herein included.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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 the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: John Arthur Cooper
10180 SW Nimbus Ave., Suite J6
Portland, OR 97223

Enclosure: Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/690,785	10/21/2003	John Arthur Cooper	2896-6

CONFIRMATION NO. 5612

POA ACCEPTANCE LETTER

74012
Goff Patent Law
8000 NE PARKWAY DR.
Suite 200
VANCOUVER, WA 98662

OC000000032000800

Date Mailed: 09/10/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/07/2008.

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

/jolszewski/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GOFF PATENT LAW
8000 NE PARKWAY DR.
SUITE 200
VANCOUVER WA 98662

COPY MAILED

NOV 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Cooper et al.	:	
Application No. 10/690,785	:	ON PETITION
Filed: October 21, 2003	:	
Attorney Docket No. 0013-00022-04	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed October 21, 2008, 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 application became abandoned for failure to timely pay the issue and publication fees on or before January 5, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed October 5, 2004, which set a statutory period of reply of three (3) months. Accordingly, the application became abandoned on January 6, 2005. A Notice of Abandonment was mailed May 5, 2005.

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

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

---

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

The instant petition continues to lack item(s) (3).

The renewed petition includes a Declaration of John Cooper, one of the three inventors, that states, "I was not aware that the '785 Application had gone abandoned until February 2008." It is unknown if all three inventors, John Arthur Cooper, Sarah Catherine Fry and Bruce Edward Johnsen, had any knowledge that (1) the application had been allowed and/or (2) the application had been abandoned. This information was not included in the renewed petition. Further, Mr. Cooper's Declaration also includes the statement, "I do not recall Mr. Brown informing me at any time that the '785 Application was going to be abandoned, or that it had been abandoned." This statement would imply that there was some contact between Mr. Cooper and Mr. Brown. It is further unclear what Mr. Cooper knew from the time the application went abandoned on January 6, 2005 until February 2008.

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 Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

---

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

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

GOFF PATENT LAW
8000 NE PARKWAY DR.
SUITE 200
VANCOUVER WA 98662

COPY MAILED
JAN 07 2009

In re Application of	:	
Cooper et al.	:	
Application No. 10/690,785	:	DECISION ON PETITION
Filed: October 21, 2003	:	
Attorney Docket No. 0013-00022-04	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 5, 2005, as required by the Notice of Allowance and Fee(s) Due mailed October 5, 2004. Accordingly, the date of abandonment of this application is January 6, 2005. A Notice of Abandonment was mailed May 5, 2005.

The petition now 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 publication fee of $300.00 (previously paid on March 10, 2008); (2) the petition fee of $770.00 (previously paid on March 10, 2008); and (3) a proper statement of unintentional delay.

Petitioner has also submitted three Declarations from each of the three inventors stating that the inventors do not remember knowing or being informed that the application of the instant petition had been allowed or that it had been abandoned prior to February 2008.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,786	10/21/2003	Donald J. Stavely	200300724-1	5613

7590 04/14/2008

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

EXAMINER	
DURAN, ARTHUR D	

ART UNIT	PAPER NUMBER
3622	

NOTIFICATION DATE	DELIVERY MODE
04/14/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 04/15/2008 DTERRY 10690786
10/24/2003 AADDFD1 00000051 082025
02 FC:1201 258.00 CR
03 FC:1202 324.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KOPPEL, PATRICK & HEYBL
555 ST. CHARLES DRIVE
SUITE 107
THOUSANDS OAKS, CA 91360

COPY MAILED

MAY 27 2008

In re Application of :
Martin W. Kendig, et. al. :
Application No. 10/690,787 : ON PETITION
Filed: October 21, 2003 :
Attorney Docket No. 02RSC081US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed on February 8, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed May 11, 2007. A Notice of Abandonment was mailed on January 18, 2008.

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. In the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed on March 5, 2008 has been accepted and made of record.

This application file is being referred to Technology Center Art Unit 1795, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/690,787	10/21/2003	Martin W. Kendig	02RSC081US1

CONFIRMATION NO. 5614

56520
KOPPEL, PATRICK & HEYBL
555 ST. CHARLES DRIVE
SUITE 107
THOUSANDS OAKS, CA 91360

POA ACCEPTANCE LETTER

Date Mailed: 05/23/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/05/2008.

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

/ddinh/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORGAN, LEWIS & BOCKIUS LLP
TWO PALO ALTO SQUARE
3000 EL CAMINO REAL, STE 700
PALO ALTO CA 94306

COPY MAILED

JAN 0 4 2007

OFFICE OF PETITIONS

In re Application of :

Yun He et al. :
Application No. 10/690,802 : DECISION ON PETITION
Filed: October 21, 2003 : TO WITHDRAW
Attorney Docket No. 021288-001910US : 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 18, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **GENOMICS INSTITUTE OF THE**
NOVARTIS RESEARCH FOUNDATION
10675 JOHN JAY HOPKINS DRIVE, SUITE E225
SAN DIEGO, CA 92121-1127

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Morgan, Lewis & Bockius LLP
Two Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306

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DEC 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Yun He et al.	:	
Application No. 10/690,802	:	DECISION ON PETITION
Filed: October 21, 2003	:	TO WITHDRAW
Attorney Docket No. P1081US10	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 16, 2007.

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

A review of the file record indicates that the power of attorney to Morgan, Lewis & Bockius has been revoked by the assignee of the patent application on February 28, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Genomics Institute of the**
Novartis Research Foundation
10675 John Jay Hopkins Drive
Suite E225
San Diego, CA 92121-1127

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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MAILED

JUL 16 2010

OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower, Suite 2800
San Francisco CA 94105

In re Patent No. 7,635,762 : DECISION ON REQUEST
Cook, et al. : FOR
Issue Date: December 22, 2009 : RECONSIDERATION OF
Application No. 10/690,806 : PATENT TERM ADJUSTMENT
Filed: October 21, 2003 : and
Atty Docket No. **061873-5007US** : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 22, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and twenty-one (921) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and twenty-one (921) days is **GRANTED**.

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

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, patentee is 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 application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred and twenty-one (921) days.**

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,635,762 B2

DATED : Dec. 22, 2009

INVENTOR(S) : Cook 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 (270) days

Delete the phrase "by 270 days" and insert – by 921 days--

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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LAW OFFICES OF JAMES E. EAKIN
P.O. BOX 1250
MENLO PARK, CA 94026

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SEP 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Michael John Allen, et al. :
Application No. 10/690,809 : DECISION ON PETITION
Filed: October 21, 2003 :
Attorney Docket No. 014928/00000001 :

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed July 8, 2009, or in the alternative a petition under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Both petitions are **DISMISSED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 17, 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 January 18, 2008.

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

With respect to **37 CFR 1.137(a)**:

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 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioner argues that the failure of James Eakin (Eakin) to forward communications to Schiff Hardin LLP was the cause of the delay. A failure to communicate is not the greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. Moreover, Schiff Hardin LLP should have known that the Power of Attorney request submitted November 9, 2007 did not comply with the provisions of 37 CFR 1.32 and 37 CFR 1.36(a).

The petition indicates that Eakin was the responsible party for prosecution of the above-identified when the reply necessary to avoid abandonment was due. Therefore, petitioner must provide an explanation from Eakin explaining why action was not timely taken to prevent the above-identified application from becoming abandoned.

With respect to **37 CFR 1.137(b)**:

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR

1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 3.

The instant petition fails to contain the required statement of unintentional delay. 37 CFR 1.37(b) states that 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 (II)(C) and (D)).]

The petition fee for the petition to revive under the unintentional provisions of 37 CFR 1.137(b) has been charged to petitioner's deposit account as requested.

It is noted that a Revocation/Power of Attorney was filed on July 8, 2009 with this petition. The Revocation/Power of attorney is not approved because the statement under 37 CFR 3.73(b) was not filed.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number). The power of attorney filed on July 8, 2009.does not include the reel and frame number on a proper 37 CFR 3.73(b) statement or a complete copy of the assignment.

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.

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

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

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

By hand: U. S. Patent and Trademark Office

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

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

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

Attachment: Blank copy of 3.73(b) statement
Blank copy of PTO/SB/64

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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SCHIFF HARDIN, LLP
PATENT DEPARTMENT
233 S. WACKER DRIVE
SUITE 6600
CHICAGO, IL 60606-6473

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JAN 19 2010

In re Application of
Michael John Allen, et al.
Application No. 10/690,809
Filed: October 21, 2003
Attorney Docket No. P07,0140

DECISION ON PETITION

This is a decision on the renewed petition under the unavoidable provisions of 37 CFR 1.137(a), filed November 3, 2009, or in the alternative a petition under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

The petitioner has not satisfied the showing requirement has been met by submission of the statements of facts establishing that the delay in filing the reply was unavoidable, as well as inadvertent.

This is also a decision on the petition under 37 CFR 1.137(b).

The application became abandoned for failure to timely manner to the non-final Office action mailed October 17, 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 January 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.

In view of the above, the petition is **GRANTED**.

As authorized, the $1620 fee required by 37 CFR 1.137(b) will be charged to petitioner's Deposit Account No. 501519.

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642. All other inquiries concerning the examination or the status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received November 3, 2009.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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02 JUL 2008

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

In re Application of	:
NOGAMI et al.	:
Application No. 10/690,811	: DECISION ON PETITION
Filed: 23 October 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 24-009-TB	:

This is a decision on Petitioner's request to confirm acceptance of earlier claim for domestic priority under 35 U.S.C. 120 and 365(c) and in the alternative, the petition under 37 CFR 1.78(a)(3), filed 06 May 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/JP02/03920 filed on 19 April 2002.

Applicant requests confirmation, that his claim for domestic priority under 35 U.S.C. 120 and 365(c) made at the time of filing the present application, was accepted. On 23 October 2003, Applicant indicated on the Form/SB/05 that the instant application is a "continuation" of "prior application PCT/JP02/03920". This indication was not a proper claim for domestic priority because the claim was not made in the first sentence of the specification or in an Application Data Sheet (ADS) as required under 37 CFR 1.78(a)(2)(iii). Because the benefit claim on the Form/SB/05 was not picked up on the first official filing receipt and Applicant did not amend the first line of the specification or file an ADS within the four month time period of the filing of the present application to include a proper claim, the filing of a petition under 37 CFR 1.78(a)(3) is necessary. Such petition is hereby **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.

On 30 October 2007, Applicant furnished an amendment to the first sentence of the specification; however, this amendment was not proper as it incorporates by reference the prior applications. The petition filed on 05 May 2008, however, complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed international application has been included in the application data sheet as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this instant application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met.

Any inquiries concerning this decision may be directed to Cynthia M. Kratz at (571) 272-3286. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

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FROM DIRECTORS OFFICE

OCT 19 2004

TECHNOLOGY CENTER 3600

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

In re application of
John Myatt et al.
Application No. 10/690,825 : DECISION ON REQUEST
Filed: October 23, 2001 : FOR WITHDRAWAL OF
For: SIGNAGE RETROFIT KIT FOR : ATTORNEY
VENDING MACHINES

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

The request is **NOT APPROVED**.

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

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

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

As to condition A) the request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition (A) above. The request to withdraw as attorney in the above-identified application is not approved because the attorney making the request; J. Scott Davidson, does not now have, and apparently never has had, power of attorney in this application. The Power of Attorney submitted March 23, 2004 was signed by an assignee. However, it is not acceptable since there is no record of an assignment in the file.

As to condition B) while a reason may be provided by referencing a **specific** portion of 37 CFR 10.40, simply not specifying a reason, is insufficient. Condition B) can be met by referencing a specific portion of 37 CFR 10.40(c) (1)-(6).

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

KJD/slb:10/13/04

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

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MAY 11 2006
OFFICE OF PETITIONS

In re Application of :
Natzume et al. :
Application No. 10/690,843 : ON PETITION
Filed: October 23, 2003 :
Title: Distance Calculating Method and System :

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

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed October 7, 2004. 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 January 8, 2005. A Notice of Abandonment was mailed on February 17, 2005.

Petitioner contends the Notice of Allowance and Notice of Allowability were never received.

Petitioner's argument has been considered but it is not convincing to establish the holding of abandonment should be withdrawn. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] The showing

[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

outlined above may not be sufficient if there are circumstances that point to a conclusion that the Notice of Allowance may have been lost after receipt rather than a conclusion that the Notice of Allowance was lost in the mail.

The Office requests further clarification of the firm's practice for docketing communications from the USPTO. Unfortunately, the firm's docketing system is not apparent from the docket record submitted with this 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 delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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MAY 25 2006
OFFICE OF PETITIONS

In re Application of :
Natzume et al. :
Application No. 10/690,843 : ON PETITION
Filed: October 23, 2003 :
Title: Distance Calculating Method and System :

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed May 17, 2006.

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

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed October 7, 2004. 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 January 8, 2005. A Notice of Abandonment was mailed on February 17, 2005.

Petitioner contends the Notice of Allowance and Notice of Allowability were never received.

Petitioner asserts that the Notice of Allowance and Fee (s) Due mailed on May 17, 2004 was never received. Petitioner states a search of the file jacket and docket records confirms the Notice of Allowance was not received. In support of petitioner's contention, a copy of the docket records has been provided.[1]

Accordingly the Office Action was mailed to the incorrect address. The Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

This application is being forwarded to Art Unit 3747 for re-mailing of the Notice of Allowance and the Notice of Allowability to the current correspondence address of record. The three month non-extendable time period for reply will be set to run from the mailing date of the new Office Communication.

[1]Although "exhibit A" on renewed petition is barely legible, sufficient evidence has been provided.

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

In re Application of :
Kazuma Natsume et al :
Application No. 10/690,843 : ON PETITION
Filed: October 23, 2003 :
Attorney Docket No. 11-200 :

This is a decision on the petition, filed April 13, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on October 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) 272-3208.

The examiner of Technology Center AU 3662 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[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
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MYERS ANDRAS SHERMAN LLP
19900 MACARTHUR BLVD.
SUITE 1150
IRVINE CA 92612

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OFFICE OF PETITIONS

In re Patent No. 6,854,663 :
Issue Date: February 15, 2005 :
Application No. 10/690,853 : DECISION ON PETITION
Filed: October 21, 2003 :
Attorney Docket No. 6209-DIV :

This is a decision on the petition under 37 CFR 1.378(c), filed May 29, 2009 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on February 16, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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 a timely response was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office. Also, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being

mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Jonathan Grant
2107 Hounds Run Place
Silver Spring, MD 20906

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael J. Aronoff
TYCO ELECTRONICS CORPORATION
SUITE 140
4550 NEW LINDEN HILL ROAD
WILMINGTON, DE 19808

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AUG 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Charles Dudlay Copper et al. :
Application No. 10/690,862 :
Filed: October 20, 2003 :
Attorney Docket No. 17921 :

DECISION ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR §1.137(b), filed May 24 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due/Notice of Allowability mailed February 16, 2005, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 17, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the issue fee ($1400) and publication fee ($300); (2) the petition fee of $1500.00 (for a large entity); and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed February 16, 2005 is accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

Karen Creedy for

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patrea L. Pabst
Holland & Knight LLP
Suite 2000, One Atlantic Center
1201 West Peachtree Street, N.E.
Atlanta, GA 30309-3400

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OFFICE OF PETITIONS

In re Application of	:	
Jane Hirsh, et al.	:	
Application No. 10/690,872	:	DECISION ON PETITION
Filed: October 22, 2003	:	TO WITHDRAW
Attorney Docket No. 73690.000120	:	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 15, 2008.

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

A review of the file record indicates that the power of attorney to Holland & Knight LLP has been revoked by the assignee of the patent application on August 5, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Hunton & Williams LLP**
Intellectual Property Department
1900 K Street, N.W.
Suite 1200
Washington, DC 20006-1109

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN, LEWIS & BOCKIUS LLP
TWO PALO ALTO SQUARE
3000 EL CAMINO REAL, STE 700
PALO ALTO CA 94306

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JAN 0 5 2007

OFFICE OF PETITIONS

In re Application of :

Baogen Wu et al. :
Application No. 10/690,873 : DECISION ON PETITION
Filed: October 21, 2003 : TO WITHDRAW
Attorney Docket No. 061877-5003-US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 18, 2006.

The request is **NOT APPROVED.**

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **GENOMICS INSTITUTE OF THE**
NOVARTIS RESEARCH FOUNDATION
10675 JOHN JAY HOPKINS DRIVE
SUITE E225
SAN DIEGO, CA 92121-1127

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Morgan, Lewis & Bockius LLP
Two Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Baogen Wu et al.	:	
Application No. 10/690,873	:	DECISION ON PETITION
Filed: October 21, 2003	:	TO WITHDRAW
Attorney Docket No. P1080US20	:	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 16, 2007.

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

A review of the file record indicates that the power of attorney to Morgan, Lewis & Bockius LLP has been revoked by the assignee of the patent application on February 27, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Genomics Institute of the**
Novartis Research Foundation
10675 John Jay Hopkins Drive
Suite E225
San Diego, CA 92121-1127

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PAUL V. KELLER, LLC
4585 LIBERTY RD.
SOUTH EUCLID, OH 44121

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OFFICE OF PETITIONS

In re Application of
Harris
Application No. 10/690,908
Filed: October 22, 2003
Attorney Docket No. Jenn003

Decision on Petition

This is a decision on the petition filed May 5, 2005, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that page 6 of the specification was part of the originally filed application.

The application was filed on October 22, 2003. On April 29, 2005, a Notice was mailed stating that page 6 of the specification did not appear to be included as part of the application filed.

The present petition alleges that page 6 of the specification was deposited on October 22, 2003. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 14 pages of specification on October 22, 2003.[1]

The USPTO file for this application includes only 13 pages of specification and does not include specification page 6. Based on the evidence submitted, the Office concludes the missing page was part of the application but were later misplaced. Therefore, the petition is **granted**.

A refund of the petition fee will be scheduled.

The Notice mailed April 29, 2005, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 22, 2003, using the application papers filed on October 22, 2003, and the copy of page 6 of the specification filed on May 5, 2005.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

16 JAN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DANIEL P. MALLEY
WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET, SUITE 400
SYRACUSE, NY 13202

In re Application of CARSTEN DUWE Application No.: 10/690,913 Filing Date: 10 July 2003 Attorney's Docket No.: 1179-014 For: DEVICE FOR PNEUMATIC OR HYDRAULIC CONVEYING OF DUSTY, POWDERY OR GRANULAR BULK MATERIAL	DECISION ON PETITION UNDER 37 CFR 1.182

This is a decision in response to applicant's "Petition under 37 CFR 1.182 To Convert a National Application Which Was Filed under 35 U.S.C. 371 to an Application Filed Under 35 U.S.C. 111(a) ". The petition was filed in the United States Patent and Trademark Office (USPTO) on 23 July 2003. The petition indicates that applicant inadvertently used the Form PTO-1390, instead of the proper transmittal form and requests that the application papers filed on 10 July 2003 be converted from a application filed under 35 U.S.C. 371 to a regular national application under 35 U.S.C. 111(a). The $130.00 petition fee has been paid.

On 10 July 2003, applicant filed a Transmittal Letter (Form PTO1390) requesting processing as a national stage application under 35 U.S.C. 371, which was accompanied by the filing fee for a filing under 35 U.S.C. 111 and a certified copy of the German priority document to perfect the claim for priority under 35 U.S.C. 119. *See* MPEP §1896. The application was processed as a filing under 35 U.S.C. 111(a) and assigned application no. 10/690,913.

The use of the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter serves as an indication that the applicant is seeking to enter the national stage under Patent Cooperation Treaty as a filing under 35 U.S.C. 371. However, applicant did not refer to a particular international application by PCT Serial Number and International Filing Date. Applicant's submission on 10 July 2003 was properly treated as an application filed under 35 U.S.C. 111(a), with a filing date of 10 July 2003.

Applicant's petition is **MOOT**. This application is being forwarded to Office of Initial Preliminary Examination for further processing. The application will then be examined in due course.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WALL, MARJAMA & BILINSKI LLP
4TH FLOOR
101 S. SALINA ST.
SYRACUSE NY 13202

COPY MAILED

FEB 12 2010

In re Patent No. 7,014,392	:	
Issue Date: March 21, 2006	:	
Application No. 10/690,913	:	NOTICE
Filed: July 10, 2003	:	
Attorney Docket No. 1179-014	:	

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 **NOT ACCEPTED**.

The fee deficiency cannot be accepted because no itemization has been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(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 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.

As indicated above, the three and one half year maintenance fee must be properly itemized.

This itemization must be provided within one (1) month of the mail date of this decision to avoid the return of the deficiency payment. See 37 CFR 1.28 (c)(3). No extension of this 1-month time limit will be granted under 37 CFR 1.136(a).

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.
THE FINANCIAL CENTER
666 WALNUT STREET
SUITE 2500
DES MOINES, IA 50309-3993

COPY MAILED

JUL 20 2005

OFFICE OF PETITIONS

In re Application of :
Sas et al. :
Application No. 10/690,914 : ON PETITION
Filed: October 22, 2003 :
Atty Dckt No.: 4532680/6100 (KEM 81) :

This is a decision on the Petition to Add Cross-Reference to Co-Pending Application Under 37 CFR 1.78(a)(3), filed March 24, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after

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

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

Any inquiries concerning this decision may be directed to 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 referred to Technology Center Art Unit 1625 for appropriate action on the amendment filed March 24, 2005, including consideration by the examiner of applicant's

entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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

October 16, 2006

Patent No. : 7,101,908 B2
Ser. No. : 10/690914
Inventor(s) : Sas, et al.
Issued : September 5, 2006
Title : **BICYCLIC CARBOHYDRATE COMPOUNDS USEFUL IN THE TREATMENT OF INFECTIONS CAUSED BY HERPESVIRIDAE**
Docket No. : 4532680/6100

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.
THE FINANCIAL CENTER
666 WALNUT STREET
SUITE 2500
DES MOINES IA 50309-3993

CBN/eme

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COMMISSIONER FOR PATENTS
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MAILED

JUN 2 2004

Office of the Director
Group 3600

The Matthews Firm
1900 West Loop South
Suite1800
Houston, TX 77027-3224

In re application of
Donald E. Mosing et al.
Application No. 10/690,920
Filed: October 22, 2003
For: TUBULAR CONNECTION WITH SLOTTED THREADS

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

This is a decision on the petition submitted on October 22, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

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

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

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

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

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

KJD/vdb: 5/13/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 2/19/08

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/690940 Patent No: 7238436 B2

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

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

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

MILTON I. CANO
SUPERVISORY PATENT EXAMINER
SPE

1794
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA GA 30361

COPY MAILED

MAY 12 2008

In re Application of

HIRSH, Jane et al.
Application No. 10/690,947
Filed: October 22, 2003
Attorney Docket No. **CP 107M (1)**

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 15, 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 Charles Vorndran on behalf of all attorneys of record who are associated with customer No. 23579. All attorneys/agents associated with the Customer Number 23579 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **JANE HIRSH**
15 PEIRCE ROAD
WELLESLEY, MA 02581

cc: **ROBERT M. SCHULMAN**
HUNTON & WILLIAMS LLP
1900 K STREET, NW
WASHINGTON, DC 20006-1109

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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
10/690,965	10/29/2003	2877	1072	81868.0107	15	20	5

CONFIRMATION NO. 6335

UPDATED FILING RECEIPT

OC000000012267606

000026021
HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071-2611

Date Mailed: 04/05/2004

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)

Takashi Iwanami, Nagano, JAPAN;
Eigi Yanagihara, Nagano, JAPAN;

Assignment For Published Patent Application

SANKYO SEIKI MFG. CO., LTD.;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-317055 10/31/2002

If Required, Foreign Filing License Granted: 01/21/2004

Projected Publication Date: 07/15/2004

Non-Publication Request: No

Early Publication Request: No

Title

Optical characteristic measurement device and optical type displacement meter

Preliminary Class

356

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

Mail Date: 04/21/2010

Applicant	: Steven M. Griffiths	: DECISION ON REQUEST FOR
Patent Number	: 7621887	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/690,987	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **635** 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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JUL 13 2005

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of :
Tickle et al. : PETITION TO MAKE SPECIAL
Serial No.: 10/690,991 :
Filed: October 23, 2003 :
Attorney Docket No.: 620-282

This is in response to applicants' petition filed June 28, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) was received. Therefore, the petition is **GRANTED**.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 26,2007

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/691,026 Patent No.: 7012279 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.

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

Comments: _____

LYNNE GURLEY
SUPERVISORY PATENT EXAMINER
Au 2811, Tc 2800

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

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EDWARD Z CAI
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CAMAS WA 98607

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Edward Z. Cai :
Application No. 10/691,031 : ON PETITION
Filed: October 22, 2003 :
Title: Fluid Delivery System for Generating Pressurized Hot Water Pulses :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 5, 2007.

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

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed September 7, 2006. This Office action set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on December 8, 2006. A Notice of Abandonment was mailed on January 8, 2007.

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]

Here, petitioner has not submitted a proper docket record showing all of his replies docketed for a due date of December 7, 2006. However, as petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. In that case, if petitioner seeks to establish that he did not receive the Notice of Allowance, petitioner must explain his system for keeping track of patent matters; where he keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the September 7, 2006 Notice was not entered into that system.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $750 for a small entity; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/64 (3 pages)

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

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

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

I hereby certify that this correspondence is being:

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

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

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

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

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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CAMAS WA 98607

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JUN 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Edward Z. Cai	:	
Application No. 10/691,031	:	ON PETITION
Filed: October 22, 2003	:	
Title: Fluid Delivery System for Generating Pressurized Hot Water Pulses	:	

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 14, 2007.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed September 7, 2006. This Office action set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on December 8, 2006. A Notice of Abandonment was mailed on January 8, 2007. Applicant filed a petition to withdraw the holding of abandonment on February 5, 2007. However, the petition was dismissed in a decision mailed on March 26, 2007.

With the instant petition, applicant has described his system for keeping track of patent correspondence and reminding himself of due dates. Accordingly, it is concluded that applicant has demonstrated that the Notice of Allowance was not received.

The matter is being forwarded to Group Art Unit 1761 for re-mailing of the Notice of Allowance, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

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OFFICE OF PETITIONS

In re Application of
McEntee
Application No. 10/691,037
Filed: 10-21-2003
Attorney Docket No. 10004031-23

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed February 14, 2007, requesting that the Office withdraw the holding of abandonment in the above-identified application.

On June 19, 2006, the Office mailed a final Office action, which set a three (3) month shortened statutory period for reply. On August 9, 2006, petitioner submitted an amendment in response to the final Office action; however, the examiner found that the amendment did not *prima facie* place the application in condition for allowance. An Advisory Action was mailed on August 23, 2006. On September 18, 2006, petitioner filed a Request for Continued Examination (RCE) and an authorization to charge the necessary fees. Despite the filing of the reply, the Office mailed a Notice of Abandonment on January 23, 2007.

The final Office Action of June 19, 2006, set a three-month shortened statutory period for reply (i.e. on or before September 19, 2006). The record indicates that petitioner submitted a timely reply in the form of an RCE and fee on September 18, 2006, within the shortened statutory period. Additionally, the amendment submitted on August 9, 2006, is an appropriate submission under 37 CFR 1.114. Accordingly, the petition is **granted**. The Notice of Abandonment was sent in error and is hereby withdrawn.

This matter will be referred to Technology Center Art Unit 1733 for processing of the RCE and the submission in response to the final Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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ROGER M. RATHBUN
13 MARGARITA COURT
HILTON HEAD ISLAND SC 29926

In re Application of :
Dykes et al. : DECISION ON PETITION
Application No. 10/691,048 :
Filed: October 22, 2003 :
Attorney Docket No. OM126 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed August 17, 2005, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on November 18, 2005. On March 3, 2006, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay.

Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 3739.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JAN 0 7 2005

Technology Center 2100

Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

In re Application of: Zilka, et al.
Application No. 10/691,057
Filed: October 22, 2003
For: NETWORK BROWSER GRAPHICAL USER INTERFACE FOR MANAGING WEB CONTENT

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed May 3, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed May 3, 2004 fails to adequately meet requirements (d) and (e) of the criteria set forth above. With respect to requirement (d), a copy of the Netscape Navigator v6.1 reference was not submitted with the petition nor was it previously made a part of the record. All references that are deemed most closely related to the subject matter must be submitted in order to meet requirement (d). With respect to requirement (e), applicant failed to provide a detailed discussion on how the claimed subject matter is patentable distinct over the Netscape Navigator v6.1 reference. The statement provided in the petition relating to the Netscape Navigator v6.1 reference is not sufficient to meet requirement (e) above.

In addition, applicant may wish to consider filing an Information Disclosure Statement (PTO-1449 or PTO-SB08A) to ensure consideration of all the references cited in the petition by the assigned examiner.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

MBS

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Technology Center 2100

Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

In re Application of: Zilka, et al.
Application No. 10/691,057
Filed: October 22, 2003
For: NETWORK BROWSER GRAPHICAL USER INTERFACE FOR MANAGING WEB CONTENT

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed May 3, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed May 3, 2004 fails to adequately meet requirements (d) and (e) of the criteria set forth above. With respect to requirement (d), a copy of the Netscape Navigator v6.1 reference was not submitted with the petition nor was it previously made a part of the record. All references that are deemed most closely related to the subject matter must be submitted in order to meet requirement (d). With respect to requirement (e), applicant failed to provide a detailed discussion on how the claimed subject matter is patentable distinct over the Netscape Navigator v6.1 reference. The statement provided in the petition relating to the Netscape Navigator v6.1 reference is not sufficient to meet requirement (e) above.

In addition, applicant may wish to consider filing an Information Disclosure Statement (PTO-1449 or PTO-SB08A) to ensure consideration of all the references cited in the petition by the assigned examiner.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

4/1/05

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Technology Center 2100

Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application of: ZILKA et al. Application No. 10/691,057 Filed: October 22, 2003 For: NETWORK BROWSER GRAPHICAL USER INTERFACE FOR MANAGING WEB CONTENT	DECISION ON RECONSIDERATION OF PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION UNDER M.P.E.P 708.02 (VIII))

This is a decision on the Request for reconsideration filed March 3, 2005 of the petition to make special under 37 C.F.R. 1.102(d) and M.P.E.P 708.02 (VIII): ACCELERATED EXAMINATION, originally filed May 3, 2004.

The Reconsideration of the Petition is **GRANTED** with recommendations for future petitions.

The initial decision, mailed January 7, 2005, indicated that the applicant should provide a copy of each reference and ensure that the discussion of the **references** is directed to how the language of **each independent claim** shows how it is specifically distinguishable and patentable over the **references.** Therefore, the applicant's discussions should focus on the independent claims; not the dependent claims or a combination of independent and dependent claims. A format not focused on the independent claims may result in delays; since, detailed evaluation time to ensure that the requirements are met increases when the format submitted confuses or disguises whether each independent claim feature is addressed in view of each cited reference.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson 4/11/05
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
703-308-0885

JC

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CARY, NC 27512-8012

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OFFICE OF PETITIONS

In re Application of :
David Catanzarite, et. al. :
Application No. 10/691,073 : ON PETITION
Filed: October 22, 2003 :
Attorney Docket No. IR-3362 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 2009, to revive the above-identified application.

The application became abandoned for failure to file a proper reply to the final Office action mailed July 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) with the $810 fee and the required submission under 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $1,110 for a three month extension of time filed on January 28, 2009. 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 $1,110 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application file is being referred to Technology Center Art Unit 3636 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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OFFICE OF PETITIONS

In re Application of :
Youseff L. Bennani et al. :
Application No. 10/691,095 : ON PETITION
Filed: October 22, 2003 :
Attorney Docket No. 6993.US.O2 :

This is a decision on the petition under 37 CFR 1.137(b) filed August 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed December 13, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 14, 2006. The Notice of Abandonment was mailed August 24, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $1,500; 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.

Also, a Request for Continued Examination (RCE) is not required in reply to a restriction requirement for purposes of reviving an abandoned application. See MPEP § 711.03(c) II.A.2. Accordingly, the $790.00 RCE fee will be credited to petitioner's Deposit Account No. 01-0025.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 1614 for appropriate action on the reply received August 6, 2007.

Chris Bottorff
Petitions Examiner
Office of Petitions

OIPE IAP22 AUG 06 2007 PATENT & TRADEMARK OFFICE

DAC

PTO/SB/30 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	10/691,095
Filing Date	October 22, 2003
First Named Inventor	Youseff L. Bennani
Art Unit	1614
Examiner Name	Graffeo, Michel
Attorney Docket Number	6993USO2

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114 Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

   a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

      i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

      ii. ☐ Other _____

   Adjustment date: 06/04/2008 CKHLOK
   08/07/2007 HVUONG1 00000047 010025 10691095
   01 FC:1801 790.00 CR

   b. ☒ Enclosed

      i. ☒ Amendment/Reply

      ii. ☐ Affidavit(s)/ Declaration(s)

      iii. ☐ Information Disclosure Statement (IDS)

      iv. ☒ Other Petition to Revive

2. Miscellaneous

   a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

   b. ☐ Other _____

3. Fees The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

   a. ☒ The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. 01-0025. I have enclosed a duplicate copy of this sheet.

      i. ☒ RCE fee required under 37 CFR 1.17(e)

      ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)

      iii. ☒ Other Petition to Revive fee

   b. ☐ Check in the amount of $ _____ enclosed

   c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature		Date	August 2, 2007
Name (Print/Type)	ANDREAS DANCKERS	Registration No.	32,652

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature	Wanda E. Smith		
Name (Print/Type)	Wanda E. Smith	Date	August 2, 2007

This collection of information is required by 37 CFR 1.114. 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: Mail Stop RCE, 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.

08/07/2007 HVUONG1 00000047 010025 10691095
01 FC:1801 790.00 DA

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request:	05/30/08	2 Serial/Patent #	10/691,095

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
X	Other RCE		08/06/07	$ 790.00

7 TOTAL AMOUNT OF REFUND	$ 790.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 0 1 -- 0 0 2 5

10 REASON:	
	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

RCE was unnecessary.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Williams TITLE: Paralegal Specialist

SIGNATURE: Terri Williams PHONE: (571) 272-2991

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 6/4/08

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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
10/691,109	10/20/2003	2142	651	TRA-084	5	40	5

CONFIRMATION NO. 7958

Gordon & Jacobson, P.C.
65 Woods End Road
Stamford, CT 06905

CORRECTED FILING RECEIPT

OC000000012355708

Date Mailed: 04/14/2004

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)

Alex Conta, Stamford, CT;
Srihari Varada, Shelton, CT;

Assignment For Published Patent Application

TranSwitch Corporation;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/21/2004

Projected Publication Date: 04/21/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Methods and apparatus for implementing multiple types of network tunneling in a uniform manner

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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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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OFFICE OF PETITIONS

In re Application of Foss :
Application No. 10/691,111 : Decision on Petition
Filing Date: October 22, 2003 :
Attorney Docket No. 2037.1003-013 :

This is a decision on the petition filed March 3, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **granted.**

Facts:

A Final Office action was mailed on February 23, 2005.

A Notice of Appeal and a request for a three-month extension of time were filed on August 25, 2005 (certificate of mailing date of August 23, 2005).

A Notice of Abandonment was mailed on February 22, 2006.

A Request for Continued Examination (RCE) and a request for a four-month extension of time were filed by facsimile transmission on February 27, 2006.

The instant petition was filed on March 3, 2006.

Discussion:

The Notice of Appeal was filed on August 25, 2005.

37 CFR 41.37(a)(1) states "a brief under this section within two months from the date of filing the notice of appeal."

37 CFR 41.37(e) states, "The time periods set forth in this section are extendable under the provisions of § 1.136 of this title for patent applications."

The time period to file the appeal brief, or other proper paper, may be extended by up to 5 months pursuant to 37 CFR 1.136.

The RCE was accompanied by a request for a four-month extension of time. The extension of time request extended the relevant time period to file an appeal brief, or other proper paper, from October 25, 2005, to February 25, 2006. Since February 25, 2006, was a Saturday, the RCE and extension of time request filed on Monday, February 27, 2006, were timely.

For the reasons above, the application is not abandoned.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2824 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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RANKIN, HILL, PORTER & CLARK, LLP
925 EUCLID AVENUE, SUITE 700
CLEVELAND, OH 44115-1405

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of Shekunov et al. :
Application No. 10/691,113 : Decision on Petition
Filing Date: October 22, 2003 :
Attorney Docket No. FER-14651 :

This is a decision on the petition under 37 CFR 1.181, filed March 8, 2007, to withdraw the holding of abandonment.

The petition is **granted to the extent indicated below.**

Facts:

A decision by the Board of Patent Appeals and Interferences affirmed the examiner's rejection of all pending claims.

The Board decision was mailed January 29, 2007.

A Notice of Abandonment was mailed February 6, 2007. The Notice stated the application was abandoned as a result of the Board decision and, "because the period for seeking court review of the decision has expired and there are no allowed claims."

The instant petition was filed March 8, 2007.

Application No. 11/687,266 was filed March 16, 2007. Application No. 11/687,266 is a continuation of the instant application.

Discussion:

In view of petitioner's failure to take any steps to reopen prosecution in the instant application, the application is clearly abandoned. The only issue to be resolved is the date of abandonment.[1]

[1] MPEP 201.11 states, "When proceedings in an application are terminated, the application is treated in the same manner as an abandoned application, and the term "abandoned application" may be used broadly to include such applications."

Office computer records currently indicate the application became abandoned February 5, 2007. Unless the date of abandonment is changed, the application will lack copendency with Application No. 11/687,266.

37 CFR 1.197(b)(2) states,

> The date of termination of proceedings on an application is the date on which the appeal is dismissed or the date on which the time for appeal to the U.S. Court of Appeals for the Federal Circuit or review by civil action (§ 1.304) expires in the absence of further appeal or review.

Per 37 CFR 1.304, the last date for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit or for commencing a civil action was Friday, March 30, 2007.

Petitioner has not taken action to reopen prosecution and no claims have been allowed. Therefore, proceedings terminated March 31, 2007.

Office records will be corrected to show a date of abandonment of March 31, 2007.

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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THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

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DEC 14 2007

OFFICE OF PETITIONS

In re Application of :
Andrys et al. :
Application No. 10/691,115 :
Filed: October 21, 2003 :
Attorney Docket No. SK00002C1 :

Decision Refusing to Accord
Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed April 26, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. No further petition fee is required for the request. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)." **Failure to respond will result in abandonment of the application.**

When a parent application has been accorded status under 37 CFR 1.47, an applicant may submit a copy of the declaration from the parent application and a copy of the parent application's Rule 47 decision letter instead of submitting a new petition under 37 CFR 1.47.[1]

Petitioner has supplied a copy of the declaration from Application No. 09/693,398. However, petitioner has not supplied a copy of a decision granting the petition under 37 CFR 1.47 filed in Application No. 09/693,398.

Even if the petition included a copy of the decision from Application No. 09/693,398, the declaration could not be accepted pursuant to 37 CFR 1.47(a). Although petitioner clearly intends for the instant application to be a continuation application, the instant application is not legally a continuation application.

[1] 37 CFR 1.63(d)(3) states, "Where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by . . . A copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under § 1.47 of which the continuation or divisional application claims a benefit."

Since the instant application was filed on or after November 29, 2000, to be valid and proper, a priority claim must be included in an Application Data Sheet or the first sentence of the specification must contain, or be amended to contain, the priority claim. A review of the electronic file wrapper fails to indicate an Application Data Sheet has been filed. The first sentence of the specification is an improper, incomplete claim for priority. The first sentence of the specification states, "This application claims the benefit of U.S. Provisional Application No. _____, entitled "Configurable Power Amplifier Bias Control," filed October 6, 2000, that is incorporated by reference."

The Office recommends petitioner file a Request for Reconsideration under 37 CFR 1.47 along with a copy of the decision on petition from Application No. 09/693,398.

In addition to the Request for Reconsideration, petitioner *may* need to file a petition under 37 CFR 1.78. Per 37 CFR 1.78(a)(3)(ii), an applicant must file a proper priority claim within the later of four months from the actual filing date of the instant application or sixteen months from the filing date of the prior application. Petitioner failed to comply with the deadline to submit a proper priority claim.

Despite the failure to timely file a priority claim, a petition under 37 CFR 1.78 is unnecessary in order to add a priority claim based *only* on Application No. 09/693,398. While a reference to Application No. 09/693,398 was not included in an Application Data Sheet (ADS) or in the first sentence of the specification, a reference, nevertheless, was made in the transmittal letter filed with the application. Where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but 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.[2] On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3). In the present case, the Office noted the claim for priority to Application No. 09/693,398 in the transmittal letter filed with the application, as shown by its inclusion on the original filing receipt. Petitioner may add the priority claim by filing an amendment or ADS in compliance with 37 CFR 1.312 prior to, or at the same time, as filing the issue fee. If the amendment or ADS will not comply with 37 CFR 1.312, a RCE must also be filed. In order to add the claim for priority after the issue fee is paid, petitioner must either file a petition to withdraw the application from issuance, or file a request for a certificate of correction after the patent has issued.

The original filing receipt did not include the priority claim to Provisional Application No. 60/238,846. Therefore, a petition under 37 CFR 1.78 must be filed in order to add a priority claim to Application No. 09/693,398 ***and*** to Provisional Application No. 60/238,846. If the petition is filed prior to payment of the issue fee, then the priority claim must be filed as part of an amendment or ADS in compliance with 37 CFR 1.312. If the amendment or ADS does not comply with 37 CFR 1.312, a RCE must also be filed. If the petition is filed after payment of the issue, petitioner should also file a petition to withdraw the application from issuance along with a RCE. **Petitioner should note, once the patent issues, the priority claim under 35 U.S.C.**

[2] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

§ 119(e) cannot be corrected by the filing of a Certificate of Correction.

Any request for reconsideration and/or petition under 37 CFR 1.78 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 the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

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JAN 25 2008

OFFICE OF PETITIONS

In re Application of :
Paul Andrys et al :
Application No. 10/691,115 : ON PETITION
Filed: October 21, 2003 :
Attorney Docket No. Sk00002C1(00CXT0656C1)

This is a decision on the petition, filed January 23, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 17, 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]

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 should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2817 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Lawrence D. Maxwell
Smith Frohwein Tempel Greenlee Blaha, LLC
Two Ravinia Drive, Suite 700
Atlanta, GA 30346

[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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THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

In re Application of :
Andrys et al. :
Application No. 10/691,115 :
Filed: October 21, 2003 :
Attorney Docket No. SK00002C1 :

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed January 23, 2008.

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. No further petition fee is required for the request. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)." **Failure to respond will result in abandonment of the application.**

Petitioner has supplied a copy of the declaration from Application No. 09/693,398. However, petitioner has not supplied a copy of a decision granting the petition under 37 CFR 1.47 filed in Application No. 09/693,398.

Petitioner states that petitioner is unable to locate a copy of the decision granting the Rule 47 petition in Application No. 09/693,398. The undersigned has obtained a copy of the decision granting the petition under 37 CFR 1.47, mailed August 28, 2001.

However, the Rule 47(a) petition is not grantable because the amendment to the specification is not yet acceptable. Petitioner has not filed a petition under 37 CFR 1.78(a)(6) to add a benefit claim to Provisional Application No. 60/238,846.

As stated in pertinent part in the prior decision on petition, "The original filing receipt did not include the priority claim to Provisional Application No. 60/238,846. Therefore, a petition under 37 CFR 1.78 must be filed in order to add a priority claim to Application No. 09/693,398 ***and*** to Provisional Application No. 60/238,846."

The currently filed amendment to the specification adds a benefit claim to both Application No. 09/693,398 (acceptable without a petition) and to Provisional Application No. 60/238,846 (**not** acceptable without a Rule 78(a)(6) petition).

A courtesy copy of this decision will be mailed to the address listed on the petition. An attorney of record, a full assignee, or all inventors may change the address of record.

Any request for reconsideration and petition under 37 CFR 1.78 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 the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: LAWRENCE D. MAXWELL
SMITH FROHWEIN TEMPEL GREENLEE BLAHA LLC
TWO RAVINIA DRIVE
SUITE 700
ATLANTA, GA 30346

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 7

SONNENSCHEIN NATH & ROSENTHAL
P.O. BOX 061080
WACKER DRIVE STATION
CHICAGO, IL 60606-1080

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OFFICE OF PETITIONS

In re Application of :
Paul Andrys, Mark Bloom, :
Hugh J. Finlay, David Ripley, :
Terry Shie and Kevin Hoheisel :
Application No. 09/693,398 :
Filed: October 21, 2000 :
Attorney Docket No. 9785980-0089 :
Title: CONSTANT CURRENT BIASING :
CIRCUIT FOR LINEAR POWER AMPLIFIERS:

DECISION ACCORDING STATUS
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition, filed June 18, 2001 (certificate of mailing June 13, 2001), under 37 C.F.R. §1.47.

The petition is **GRANTED**.

The above-identified application was filed on October 21, 2000, without an executed declaration and naming Paul Andrys, Mark Bloom, Hugh J. Finlay, David Ripley, Terry Shie and Kevin Hoheisel as joint inventors. Accordingly, on December 13, 2000, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" was mailed, requiring an executed oath or declaration in compliance with §1.63, and a surcharge for late filing under §1.16(e). This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee); paid the surcharge; and submitted a declaration executed by inventors Andrys, Finlay, Ripley and Shie on behalf of themselves and on behalf of non-signing inventors Bloom and Hoheisel. This reply was made timely by an accompanying petition for a four-month extension of time.

Rule 47 applicant asserts that status under §1.47 is proper because inventors Bloom and Hoheisel refuse to execute the application papers. A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

By declaration of attorney Gregory Gulliver, applicant set forth the facts relied on to conclude that inventors Hoheisel and Bloom are unavailable to join in the application. The following documentary evidence supported this declaration of facts: 1) a copy of the cover letters of May 10, 2001 and of June 11, 2001,

showing that the declaration and application papers had been sent via Certified Mail and Federal Express respectively, to non-signing inventor Hoheisel at his last known address; 2) a copy of the cover letters of May 3, 2001, May 23, 2001, and June 8, 2001, showing that the declaration and application papers had been sent via Certified Mail to non-signing inventor Bloom at various last known addresses, including the forwarding addresses provided by the United States Postal Service. In view of the evidence presented, it is concluded that rule 47 applicant has shown that non-signing inventor Hoheisel has refused, by his conduct, to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings) and that non-signing inventor Bloom cannot be reached to join in the application.

The declaration filed June 18, 2001, and the petition have been reviewed and found in compliance with 37 C.F.R. §1.47(a). As provided for in MPEP 409.03(a), the declaration submitted is being treated as having been signed by all the available joint inventors on behalf of the nonsigning inventors.

However, the added page executed by the assignee on behalf of inventors Bloom and Hoheisel is not being entered or accepted (but will be retained in the file). Filing of a declaration by an assignee under 37 CFR 1.47(b) and 35 USC 118 is permitted only where no inventor is available to make application. Where 37 CFR 1.47(a) is available, application cannot be made under 37 CFR 1.47(b). See MPEP 409.03(b).

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 inventors 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 completion of pre-examination processing, **including verifying the correction of the inventorship**. The inventorship of record should be made consistent with the declaration filed June 18, 2001. "David Ripley" should be listed only once as an inventor, and "Hugh J. Finlay" should be added as an inventor.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

for D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Commissioner for Patents
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SMITH FROHWEIN TEMPEL GREENLEE BLAHA, LLC
Two Ravinia Drive
Suite 700
ATLANTA GA 30346

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
Andrys et al. :
Application No. 10/691,115 :
Filed: October 21, 2003 :
Attorney Docket No. SK00002C1 :

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.47(a) and the petition under 37 CFR 1.78(a)(6), filed March 6, 2008.

The petition under 37 CFR 1.78(a)(6) is **GRANTED.**

The petition under 37 CFR 1.47(a) is **GRANTED.**

Applicants filed a petition 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 amendment filed January 23, 2008.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

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, practitioner 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, practitioner must notify the Office.

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.

With respect to the reconsideration petition under 37 CFR 1.47(a): Petitioners have supplied a copy of the declaration from Application No. 09/693,398 and the undersigned has obtained a copy of the decision granting the petition under 37 CFR 1.47, mailed August 28, 2001. Said decision is part of this application file.

The petition under 37 CFR 1.78(a)(6) is granted. Thus, the amendment to the specification to perfect the benefit claim to Application No. 09/693,398 and add a benefit claim to Provisional Application No. 60/238,846 has been accepted.

Pursuant to 37 CFR 1.63(d), petitioners have obtained Rule § 1.47 status in the present application. The petition under 37 CFR 1.47(a) is granted.

The Office will not forward notice of this application's filing to the non-signing inventor because notice regarding the filing of the previous application was given.

A corrected Filing Receipt, which includes the priority claim to the prior-filed non-provisional and provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2817 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.

Telephone inquiries regarding this communication should 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

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 NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/691,115	10/21/2003	2817	1326	19308.0120U2	27	3

CONFIRMATION NO. 5326

CORRECTED FILING RECEIPT

35856
SMITH FROHWEIN TEMPEL GREENLEE BLAHA, LLC
Two Ravinia Drive
Suite 700
ATLANTA, GA 30346

OC00000030259179

Date Mailed: 06/02/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Paul Andrys, Swisher, IA;
Mark Bloom, Chandler, AZ;
Hugh J. Finlay, Moorpark, CA;
David Ripley, Cedar Rapids, IA;
Terry Shie, Cedar Rapids, IA;
Kevin Hoheisel, Hiawatha, IA;

Power of Attorney: The patent practitioners associated with Customer Number 35856

Domestic Priority data as claimed by applicant

This application is a CON of 09/693,398 10/21/2000 PAT 6,639,470 which claims benefit of 60/238,846 10/06/2000

Foreign Applications

If Required, Foreign Filing License Granted: 01/21/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/691,115**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

CONSTANT CURRENT BIASING CIRCUIT FOR LINEAR POWER AMPLIFIERS

Preliminary Class

330

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OCT 0 4 2004

OFFICE OF PETITIONS

In re Application of	:
Rikhy, et al.	: DECISION GRANTING
Application No. 10/691,118	: STATUS UNDER 37 CFR
Filed: October 21, 2003	: 1.47(a)
Docket No.: 021479-000300US	:
For: "PULL" ARCHITECTURE	:
CONTACT CENTER	:

This decision is in response to the petition under 37 CFR 1.47(a), filed August 24, 2004.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioner has shown that inventor Paul Rudnick has refused to sign the declaration after having been presented with the application papers.

Thus, the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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PAUL RUDNICK
3650 OLD BLACKHAWK ROAD
DANVILLE, CA 94506-4672

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OCT 04 2004

OFFICE OF PETITIONS

In re Application of :
Rikhy, et al. :
Application No. 10/691,118 : LETTER
Filed: October 21, 2003 :
Docket No.: 021479-000300US :
For: "PULL" ARCHITECTURE :
CONTACT CENTER :

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Pierpaolo Correale, et al.
Application No. 10/691,125
Filed: October 21, 2003
Attorney Docket No. 126442-100008-US

ON PETITION

This is a decision in response to the petition, filed February 26, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b). This is also a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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 Rebekka C. Noll appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she 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 Ms. Noll 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.

As to the petition under 37 CFR 1.137(b) --

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 3, 2006. A Notice of Abandonment was mailed on August 10, 2006. On February 26, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

Accordingly, the petition under 37 CFR 1.137(b) is **GRANTED**.

As to the request 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.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 for the above-identified application is hereby **ACCEPTED**.

This application no longer qualifies for small entity status. Accordingly, any future fees must be paid at the large entity rate.

It is noted that fees under 1.28 are authorized to be charged in the related provisional application. Since each file must be complete in itself, the balance of the fees for the related provisional application cannot be charged at this time. A separate copy of the request must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical, in accordance with 37 CFR 1.1.4(b).

The application is being referred to Technology Center AU 1653 for consideration of the amendment filed February 26, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: REBEKKA C. NOLL
1585 BROADWAY, STE 16-76
NEW YORK, NY 10036

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SAWYER LAW GROUP, LLP
P.O. BOX 51418
PALO ALTO, CA 94303

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FEB 20 2008

OFFICE OF PETITIONS

In re Application of :
William R. Murray, Jr. :
Application No. 10/691,128 : DECISION ON PETITION
Filed: October 22, 2003 : TO WITHDRAW
Attorney Docket No. 20006-7001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 18, 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 Joseph A. Sawyer on behalf of all attorneys of record who are associated with customer No. 29141. All attorneys/agents associated with the Customer Number 29141 have been withdrawn.

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. Accordingly, all correspondence will be mailed to the assignee. A courtesy copy of this decision will be mailed to the address noted on the request. If you would like to receive future correspondence then the proper power of attorney documents must be submitted.

It is noted that the power of attorney submitted on November 22, 2004 was improperly accepted by the Office on April 1, 2005. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that a reel and frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided. Therefore, in order for the power of attorney to be 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).

Applicant is reminded that there is no attorney of record at this time.

There are no outstanding Office actions in this case.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Patent Law Offices of Michael Woods
3433 Wheeling Drive
Santa Clara, CA 95051

cc: William R. Murray, Jr.
573 Marlin Court
Redwood City, CA 94065

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/691,128	10/22/2003	William G. Murray JR.	20006-7001

CONFIRMATION NO. 5344

29141
SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO, CA 94303

POWER OF ATTORNEY NOTICE

OC000000028385587

Date Mailed: 02/20/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/18/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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JUN 04 2010

OFFICE OF PETITIONS

In re Application of
Nicholas Shayne Brookins et al.
Application No. 10/691,129
Filed: October 22, 2003
Attorney Docket No: 4752-000004

ON PETITION

This is a decision on the petition filed April 23, 2010 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed September 4, 2009. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned December 7, 2009. Accordingly, the Notice of Abandonment was mailed April 29, 2010, after the filing of the instant petition.

This matter is being referred to Technology Center 2622 for appropriate action on the amendment filed April 23, 2010.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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JUN 14 2005

Charles N.J. Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford CT 06901-2682

In re Application of :
Leandro Rizzuto Jr. :
Serial No.: 10/691,131 : DECISION ON PETITION
Filed: October 22, 2003 :
For: A Hair Styling Tool :

This is in response to the petition applicant filed on September 24, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (751) 273-0275.

Frederick R. Schmidt, Director
Technology Center 3700

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ORIGIN LAW - IBM
333 N. INDIAN HILL BLVD
SUITE 208
CLAREMONT CA 91711

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JAN 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Stakutis et al.	:	
Application No. 10/691,134	:	ON PETITION
Filed: October 21, 2003	:	
Title: SJO919970205US4/IMBCP013	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 5, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, a terminal disclaimer and a terminal disclaimer fee; (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.

A copy of the Notice of Acceptance of Power of Attorney is enclosed.

This matter is being referred to Technology Center 2100 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

Enclosure: Notice of Acceptance of Power of Attorney (2 pages)

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JUN -1 2005

In re Application of	:	
Alireza Pirouzkhah et al.	:	
Serial No. 10/691,138	:	DECISION ON
Filed: October 21, 2003	:	PETITION TO WITHDRAW
For: VARIABLE POINTS GENERATION CRAPS GAME	:	AS ATTORNEY

By papers filed on January 19, 2005 and May 9, 2005, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the new correspondence address for this application is:

Alireza Pirouzkhah
9150 Florence Avenue, #200
Downey, CA 90240

Office of the Director
Technology Center 3700

Belasco, Jacobs & Townsley, LLP
Howard Hughes Center
6100 Center Drive, Suite 630
Los Angeles, CA 90045

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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WRIGHT MEDICAL TECHNOLOGY, INC.
5677 AIRLINE ROAD
ARLINGTON TN 38002-9501

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NOV 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Stephen B. Murphy	:	DECISION ON PETITION TO
Application No. 10/691,143	:	WITHDRAW HOLDING OF
Filed: 21 October, 2003	:	ABANDONMENT
Attorney Docket No. 702.153	:	

This is a decision on the petition filed on 3 November, 2005, styled under 37 CFR 1.8(b), which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned on 5 August, 2005, for failure to timely respond to the non-final Office action mailed on 4 May, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner asserts that an amendment was timely filed by facsimile. In support, petitioner has supplied a copy of an amendment to the specification, the first page of which contains a Certificate of Transmission dated 3 August, 2005, and signed by Patricia Powell. Petitioner has also included a copy of the sending unit's transmission report, showing that the response was faxed to 703-872-9306, as well as a copy of the USPTO's Auto-Reply Facsimile Transmission report showing that eight (8) pages were received on 3 August, 2005.

As petitioners have provided convincing evidence that an amendment was transmitted to the USPTO on 3 August, 2005, 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.

The application is being referred to Technology Center Art Unit 3733 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MYERS BIGEL SIBLEY & SAJOVEC, P.A
PO BOX 37428
RALEIGH NC 27627

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of:
HWANG, Huan-Sheng
Application No.: 10/691,150
Filed: October 22, 2003
Attorney Docket No.: 9314-49

DECISION APPROVING
WITHDRAWAL OF ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of Record under 37 CFR § 1.36, filed October 2, 2008.

The Request is **APPROVED**.

Debra K. Stephens requests that she alone be withdrawn as an attorney under 37 CFR § 1.36, pursuant to the reason set forth under 37 CFR § 10.40(b)(2), because of her current employment by the United States Patent and Trademark Office. Since the Request satisfies all of the requirements for withdrawal, it is appropriate to approve the Request and withdraw only Ms. Stephens as an attorney of record.

All future communications from the Office will continue to be directed to the above-identified correspondence address.

A courtesy copy of this decision is being mailed to Ms. Stephens at the address identified in the Request.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Debra K. Stephens
301 Edgemore Avenue
Cary, NC 27519

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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MYERS BIGEL SIBLEY & SAJOVEC, P.A.
P.O. BOX 37428
RALEIGH, NC 27627

Mail Date: 04/21/2010

Applicant	: Huan-sheng Hwang	: DECISION ON REQUEST FOR
Patent Number	: 7592958	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/691,150	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/691,159	10/22/2003	1615	1564	P32181C1		15	1

CONFIRMATION NO. 6528

CORRECTED FILING RECEIPT

20462
SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY-US, UW2220
P. O. BOX 1539
KING OF PRUSSIA, PA 19406-0939

OC000000013634318

Date Mailed: 08/25/2004

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)

Karen Lewis, Harlow, UNITED KINGDOM;
Nicola Jayne Lilliott, St. Albans, UNITED KINGDOM;
Donald Colin MacKenzie, Harlow, UNITED KINGDOM;
Vincenzo Re, Harlow, UNITED KINGDOM;

Assignment For Published Patent Application

SmithKline Beecham p.l.c.;

Domestic Priority data as claimed by applicant

This application is a CON of 09/831,650 01/07/2002 ABN
which is a 371 of PCT/EP99/08704 11/08/1999

Foreign Applications

UNITED KINGDOM 9824866.9 11/12/1998
UNITED KINGDOM 9824867.7 11/12/1998
UNITED KINGDOM 9824869.3 11/12/1998
UNITED KINGDOM 9912193.1 05/25/1999
UNITED KINGDOM 9912190.7 05/25/1999
UNITED KINGDOM 9912191.5 05/25/1999

If Required, Foreign Filing License Granted: 01/21/2004

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Pharmaceutical composition for modified release of an insulin sensitiser and another antidiabetic agent

Preliminary Class

424

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

OIPE
OCT 12 2004
PATENT & TRADEMARK OFFICE

PTO/SB/83 (09-03)
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	10/691,171
Filing Date	10/22/2003
First Named Inventor	ROBERT RAUCH
Art Unit	
Examiner Name	
Attorney Docket Number	POWRD-023C

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

5/2/05
Approved
Jacqueline M. Stone, Director
Technology Center 1700

Please withdraw me as attorney or agent for the above identified patent application, and

☐ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☒ the attorneys/agents associated with Customer Number 007663

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with the customer number

The reasons for this request are: Client has requested that all files be transferred to their in-house patent department.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to:

☒ Customer Number: 00423

OR

☐ Firm or Individual Name					
Address					
Address					
City		State		Zip	
Country					
Telephone			Fax		

Name	MATTHEW A. NEWBOLES		
Signature		Registration No.	36,224
Date	10/7/04	Telephone No.	(949) 855-1246

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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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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APR 01 2005

OFFICE OF PETITIONS

In re Application of :
Bing Chiang et al :
Application No. 10/691,198 : ON PETITION
Filed: October 22, 2003 :
Attorney Docket No. 2479.2028-001

This is a decision on the petition, filed April 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 19, 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 Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 2817 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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ONE JOHN DEERE PLACE
MOLINE IL 61265

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OCT 12 2005

OFFICE OF PETITIONS

In re Application of :
Resing et al. :
Application No. 10/691,213 : DECISION ON PETITION
Filed: 22 October, 2003 :
Atty Docket No. 09197-US :

This is a decision on the petition filed on 16 September, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 29 January, 2005, for failure to timely reply to the final Office action mailed 28 October, 2004, which set a three (3) month shortened statutory period for

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 13 May, 2005.

Petitioner has filed a Request for Continued Examination (RCE) and an amendment as the required reply under 37 CFR 1.114.

This application is being referred to Technology Center 3671 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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MAIL

FEB 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Lawrence J. Bassuk
Texas Instruments Incorporated
P.O. Box 655474, M/S 3999
Dallas, TX 75265

In re Application of:
Lee D. WHETSEL
Application No. 10/691,225
Filed: October 22, 2003
For: CIRCUIT WITH EXPECTED DATA MEMORY COUPLED TO SERIAL INPUT LEAD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renew petition, filed on October 22, 2003, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of October 22, 2003 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,980,182	2005-12-27	10691228	2003-10-22	02CR340/KE

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Matthew J. Evans/	Date (YYYY-MM-DD)	2010-02-23
Name	Matthew J. Evans	Registration Number	56530

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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Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6980182
Issue Date: December 27,2005
Application No. 10691228
Filed: October 22,2003
Attorney Docket No. 02CR340/KE

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 24,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 24,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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Alexandria, VA 22313-1450
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MARVELL SEMICONDUCTOR, INC.
INTELLECTUAL PROPERTY DEPARTMENT
700 FIRST AVENUE, MS# 509
SUNNYVALE, CA 94089

COPY MAILED

NOV 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Sutardja, Sehat :
Application No. 10/691,237 : ON PETITION
Filed: October 23, 2003 :
Attorney Docket No. MP0320 :

This is a decision on the petition filed August 11, 2004, requesting that the above-identified application be accorded a filing date of October 22, 2003, rather than the presently accorded date of October 23, 2003. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.10." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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, 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, 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 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.

As to (3), petitioner has failed to include any evidence from the USPS that the correspondence was deposited in the "Express Mail Post Office to Addressee" service on October 22, 2003. Petitioner stated "a Pick Up Service Statement ... from the USPS notes item no. 10, which corresponds to the Express Mail No. EL741090883US, was picked up on October 22, 2003." A copy of the statement should be submitted to the Office with any request for reconsideration on the instant petition.

A petition under 37 CFR 1.10 does not require a petition fee and none has been charged.

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
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax:
(703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3282.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MARVELL SEMICONDUCTOR, INC.
INTELLECTUAL PROPERTY DEPARTMENT
700 FIRST AVENUE, MS# 509
SUNNYVALE CA 94089

COPY MAILED

JAN 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Sutardja, Sehat	:	
Application No. 10/691,237	:	ON PETITION
Filed: October 22, 2003	:	
Attorney Docket No. MP0320	:	

This is a decision on the renewed petition filed November 29, 2004, requesting that the above-identified application be accorded a filing date of October 22, 2003, rather than the presently accorded date of October 23, 2003. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

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, 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, 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 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.

As requested in the Petition Decision mailed on November 5, 2004, petitioner has submitted a copy of the Pick Up Service Statement, showing the date of pickup as "October 22, 2003," which includes Express Mail label No. EL741090883US. The same Express Mail receipt number appears on the original "Transmittal for Patent Application," which includes the Express Mail label number. Additionally, the Express Mail label number appears on the Certificate of Mailing

by "Express Mail" and includes a statement of express mailing dated October 22, 2003 on the cover page for the application papers.

In view of the above, it is concluded that the application of Express Mail label No. EL741090883US was deposited as "Express Mail" with the USPS on October 22, 2003.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of October 22, 2003, along with a corrected filing receipt.**

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3206.

Charles Steven Brantley
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
10/691,237	10/22/2003	2822	842	MP0320	4	24	3

CONFIRMATION NO. 5999

23624
MARVELL SEMICONDUCTOR, INC.
INTELLECTUAL PROPERTY DEPARTMENT
700 FIRST AVENUE, MS# 509
SUNNYVALE, CA 94089

CORRECTED FILING RECEIPT

OC000000015172078

Date Mailed: 02/14/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Sehat Sutardja, Los Altos Hills, CA;

Assignment For Published Patent Application

Marvell International Ltd., Hamilton Hm DX, BERMUDA

Power of Attorney: The patent practitioners associated with Customer Number **23624**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/21/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/691,237

Projected Publication Date: 05/26/2005

Non-Publication Request: No

Early Publication Request: No

Title

Efficient transistor structure

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).

Newsome, Lamonte

From: Leung, Quyen
Sent: Tuesday, April 14, 2009 2:13 PM
To: Newsome, Lamonte; Dougherty, Thomas
Subject: RE: 10691238

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper N

DATE : 3/27/09

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction for Appl. No.: 10691238 . Patent No.: 7098574 B:

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(the IFW application image. No new matter should be introduced, nor should the scop meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to sc using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSC
Certificates of Correction E
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** ap
☐ **Denied**	State the reasons for denial below.

Comments:

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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
10/691,260	10/21/2003	1722	856	SP03-144	6	19	4

CONFIRMATION NO. 5452

22928
CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

CORRECTED FILING RECEIPT

OC000000011880373

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)

Scott L. Adriaansen, Elmira, NY;
Kim F. Cobb-Cain, Corning, NY;
Kevin B. Sterner, Corning, NY;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/22/2004

Projected Publication Date: 04/21/2005

Non-Publication Request: No

Early Publication Request: No

Title

Extruded ceramic log transfer system

Preliminary Class

425

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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IBM CORPORATION, INTELLECTUAL PROPERTY LAW
DEPT 917, BLDG. 006-1
3605 HIGHWAY 52 NORTH
ROCHESTER, MN 55901-7829

Mail Date: 04/21/2010

Applicant	: Richard D. Dettinger	: DECISION ON REQUEST FOR
Patent Number	: 7617196	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/691,308	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **818** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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THE MATTHEWS FIRM
2000 BERING DRIVE
SUITE 700
HOUSTON, TX 77057

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AUG 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Crawford and Lamb :
Application No.10/691,309 :
Filed: October 22, 2003 :
Attorney Docket No. PET-004:CIP2 :

DECISION GRANTING PETITION

This is a decision on petition filed May 10, 2004, requesting that the above-identified application retain the presently accorded a filing date of October 22, 2003, with Figure11 as described in the specification as part of the original disclosure.

On October 22, 2003, the above-identified application was filed. On March 9, 2004, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of October 22, 2003, however, Figure 11 appeared to have been omitted. The Notice also required an oath or declaration to be filed and a surcharge for the late filing of the same. 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 May 10, 2004, applicants filed the renewed petition along with a copy of the Office date-stamped postcard acknowledging receipt of 12 sheets of drawings on October 22, 2003, and a complete copy of the informal drawings including Figure 11.

Upon review of the record, Figure 11 as described in the specification has not been located among the application papers. However, the evidence is convincing that the application papers deposited October 22, 2003, included Figure 11, which was subsequently misplaced by the Office. Therefore, the application, including Figure 11 as described in the specification, was complete on filing and entitled to the presently accorded filing date of October 22, 2003.

Accordingly, the petition is granted; the language in the Notice relative to the omitted figure is vacated, accordingly. 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 22, 2003, using the 12 sheets of drawings filed October 22, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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FELLERS, SNIDER, BLANKENSHIP,
BAILEY & TIPPENS, P.C.
BANK ONE TOWER
100 NORTH BROADWAY, SUITE 1700
OKLAHOME CITY, OK 73102-8820

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NOV 07 2007

OFFICE OF PETITIONS

In re Application of
Waionn Chee, et al.
Application No. 10/691,324
Filed: October 22, 2003
Attorney Docket No. TL11245

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 3, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before June 27, 2007. On July 3, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on September 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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

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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CHRISTOPHER DEVRIES
GENERAL MOTORS CORPORATION
LEGAL STAFF, MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT, MI 48265-3000

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JAN 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Tamai et al.	:	
Application No. 10/691,332	:	DECISION ON PETITION
Filed: October 20, 2003	:	
Attorney Docket No. GP-302819	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

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 solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3618 for processing of the Request for Continued Examination under 37 CFR 1.114 filed January 3, 2007.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc: ANGELA M. BRUNETTI
GENERAL MOTORS, INC.
7150 E. CAMELBACK ROAD, SUITE 325
SCOTTSDALE, AZ 85251

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MATHEWS, SHEPHERD, MCKAY, & BRUNEAU, P.A.
29 THANET ROAD, SUITE 201
PRINCETON NJ 08540

In re Application of	
Kalidas Shetty	
Serial No.: 10/691,360	PETITION DECISION
Filed: October 22, 2003	
Attorney Docket No.: 4999-102US	

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed December 18, 2006. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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JUL 14 2005

OFFICE OF PETITIONS

In re Application of :
Robert J. Zander et al :
Application No. 10/691,366 : ON PETITION
Filed: October 22, 2003 :
Attorney Docket No. 0301A-000041 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 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/publication fee in a timely manner in reply to the Notice of Allowance mailed March 24, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 25, 2005.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALISON J. BALDWIN
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CHICAGO, IL 60606

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DEC 1 6 2005

OFFICE OF PETITIONS

In re Application of	:
Claire M. McCallum et al	:DECISION ON PETITION
Application No. 10/691,374	:UNDER 37 CFR 1.78(a)(6)
Filed: October 22, 2003	:
Attorney Docket No. 02,276-A	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 11, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional Application No. 60/420,228.

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.

The instant nonprovisional application was filed on October 22, 2003. Reference to the prior-filed application was made in the declaration filed with the instant application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the above-noted, prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $1,370 petition fee submitted is unnecessary and will be credited to petitioner's deposit account in due course.

---

[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.

Any questions concerning this decision on petition 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 Files Repository.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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MAY 27 2004

OFFICE OF PETITIONS

In re Application of :
Ortiz, et al. :
Filed: October 21, 2003 : ON PETITION
Application No. 10/691,391 :
Dkt. No.: : 020843-000110US :

This decision is in response to the "PETITION IN REGARD TO NOTICE OF OMITTED ITEM", filed April 9, 2004. This petition is being treated as a petition for withdrawal of Notice and accordance of a filing date of October 21, 2003.

The application was filed October 21, 2003. The Notice mailed March 17, 2004 by the Office of Initial Patent Examination indicated that the application had been accorded a filing date but that figures 12 and 13 appeared to have been omitted from the specification.

In response, the present petition was filed wherein petitioner argues that the application as deposited included figures 12 and 13 of the specification. Petitioner has included as proof of mailing and proof of receipt of the figures in question a return postcard date stamped by the Office on October 21, 2003. A copy of figures 12 and 13 purportedly filed with the application on October 21, 2003 was also supplied.

The original figures 12 and 13 have not been located. However, in view of the evidence presented, the petition for withdrawal of the Notice is GRANTED.

Since the original drawing sheets cannot be located in the Office, the copy of figures 12 and 13 supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter. A refund of the previously submitted $130.00 petition fee has been requested from the requested.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of October 21, 2003.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

Mail Date: 04/21/2010

Applicant	: Michael Francis Higgins	: DECISION ON REQUEST FOR
Patent Number	: 7598961	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/691,396	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1028** 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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Cohen, Pontani, Lieberman & Pavane
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Suite 1210
New York, NY 10176

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TECHNOLOGY CENTER 3600

In re Application of : DECISION ON PETITION
BRUNN, Michael : TO REVIEW RESTRICTION
Application No. 10/691,404 : REQUIREMENT UNDER
Filed: October 21, 2003 : 37 CFR 1.144
For: SUPER LONG RANGE CRASH-BANG ROUND :

This is in response to applicant's petition filed under 37 CFR 1.144 received March 1, 2005 requesting a review of the requirement for an election of species made in the Final Office action mailed February 2, 2005 and that the election requirement be withdrawn and previously withdrawn claims be considered.

A review of the record indicates that the examiner required an election of species on April 27, 2004 between the articles shown in Figs. 4A and 4B, Figs. 5A and 5B, Figs. 6A and 6B, and Figs. 7A and 7B. The applicant traversed the restriction, pointing out the supposed errors, and electing the invention of Figs. 4A and 4B on June 1, 2004. In the next Office action, mailed September 13, 2004, the election of species requirement was made final. The examiner withdrew claims 6, 10, 11, 16-19, 21, 30, 32, 33 and 35 as being drawn to the non-elected species of Figs. 5A through 7B, rejected claims 1-5, 7-9, 12, 13, 15, 20, 22-29, 31, 34 and 36-38, and objected to claim 14 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. In the amendment of November 29, 2004, applicant amended claim 1 to include the substantive limitations of claims 13 and 14; thus believing that amended claim 1 is in condition for allowance. Corresponding amendments were also made to independent claims 26 and 27. Applicant also requested that previously withdrawn claims 10, 11, 18, 19, 21, 32, 33 and 35 be reconsider for examination through their dependence on claims 1 and 27. Newly added claims 39-55 were presented in the amendment of November 29, 2004. In the Final Office action mailed February 3, 2005, the examiner also withdrew newly added claims 40, 41, 48, 50, 51 and 53 for consideration as being directed to a non-elected species, since applicant had received an action on the merits for the originally presented invention (i.e., the species of Figs. 4A and 4B). It is at this point in the prosecution that the Office received the above-noted petition.

Applicant argues that there are two criteria for making a proper Restriction Requirement: (a) the inventions must be independent or distinct as claimed; and (b) there must be a serious burden on the examiner to examine the inventions. Applicant traverses the restriction requirement because

the examiner has failed to make a prima facie showing of a serious burden "by appropriate explanation of separate classification, or separate status in the art, or a different field of search" (MPEP § 803.01). Applicant argues that because the Examiner has failed to show any of these, or even to make any statement concerning the serious burden criteria, the examiner has not made a proper Restriction Requirement. In the Office action mailed September 13, 2004, the Examiner stated that there are a plurality of patentably distinct species and that any additional set of species would require additional search. Thus, it would be a burden on the examiner.

Applicant's reliance on MPEP § 803.01 does not apply to a restriction requirement between species. The criteria for a proper restriction with respect to species is whether the inventions are independent (i.e., species under a genus which are not useable as disclosed) and whether they are patentably distinct (MPEP § 806.04(h)). Since the species of Figs. 4A and 4B, 5A and 5B, 6A and 6B, and 7A and 7B are mutually exclusive they are clearly independent. Whether the species are patentably distinct is necessarily a subjective test applied by each examiner given the nature of the art. In this case, it can not be said that the inventions of 4A and 4B, 5A and 5B, 6A and 6B, and 7A and 7B are clearly unpatentable over one another (i.e., clearly obvious variants). Thus the inventions are at least arguably patentably distinct.

Petitioner's allegation that the examiner's burden must be shown via either different classification, status in the art or different field of search is not well founded. MPEP § 808.01(a) states that once different species are established "it is not necessary to show a separate status in the art or separate classification" as it is for other kinds of restriction requirements.

With respect to the examiner's finding that amended claim 1 is not generic to the species recited in claims 10, 11, 18, 19 and 21, applicant's arguments are found to be persuasive. Claim 1, as amended, is generic to the species of Figs. 4A and 4B, 5A and 5B, and 6A and 6B. In all applications where a generic claim is found allowable, the application, in the next Office action, should be treated as indicated in MPEP § 809.02 (b), § 809.02 (c), or § 809.02 (e). MPEP § 809.02 (c) states that when all claims to each of the additional species are embraced by an allowable generic claim as provided by 37 CFR 1.141, applicant must be advised of the allowable generic claim and that claims drawn to the nonelected species are no longer withdrawn since they are fully embraced by the allowed generic claim. Therefore any withdrawn claims dependent upon claims 1, 26 and 27 are no longer withdrawn since they are fully embraced by the allowed generic claim. However, it should be noted that claims 18, 19, 40, 41, 50 and 51 are directed to a species that has not been originally disclosed. Claims 18 and 19, for example, call for a projectile having a container for the at least one material comprising the weighty and frangible ballast (claim 18) wherein the container is comprised of nylon (claim 19). And claims 40 and 41 call for a crash-bang cartridge assembly comprising a weighty and frangible ballast comprising a mixture of zinc powder and graphite powder (claim 1) and a liquid (claim 40) wherein the liquid is methylene (claim 41).

With respect to claims 18 and 19, none of the projectiles of the species of Figs 4A and 4B, 5A and 5B, and 6A and 6B comprise a container. Only the projectile of Figs. 7A and 7B comprises a container wherein the container comprises nylon. Furthermore, the projectile of Figs. 7A and 7B comprises a weighty and frangible ballast comprising a liquid. The specification and the

claims, as originally filed, disclose a crash-bang cartridge comprising a weighty and frangible ballast comprising either a mixture of zinc powder and graphite powder or a liquid such as methylene chloride. The disclosure does not provide support for the ballast as comprising the combination of both the mixture of zinc and graphite powder and a liquid.

SUMMARY: The petition is **GRANTED-IN-PART.**

In view of the findings noted above, the restriction requirement will not be withdrawn. However, the application will be returned to the examiner of record for consideration of all the claims in the application, including the issue of whether or not claims 18, 19, 40, 41, 50 and 51 are supported by the specification, as originally filed.

Donald T. Hajec, Director
Patent Technology Center 3600
(703) 306-4180

DH/tl: 3/30/05

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DEPT 917, BLDG. 006-1
3605 HIGHWAY 52 NORTH
ROCHESTER, MN 55901-7829

Mail Date: 04/21/2010

Applicant	: Richard D. Dettinger	: DECISION ON REQUEST FOR
Patent Number	: 7593929	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/691,415	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1186** 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 : ~~5/16/06~~ 7/19/06

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/691425 Patent No.: 7030091 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

1654

Art Unit

10/691425

HOWREY LLP

1111 Louisiana, 25th Floor
Houston, TX 77002-5242
T 713.787.1400
F 713.787.1440
www.howrey.com

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PATENT & TRADEMARK OFFICE

Certificate
MAY 09 2006
of Correction

Dennis R. Chesire
T - 713.654.7678
F - 713.787.1440
email: chesired@howrey.com

May 2, 2006

FILE: 11916.0046.DVUS02

CERTIFICATE OF MAILING
37 C.F.R. 1.8

I hereby certify that this correspondence is being deposited with the U.S. 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 below:

May 3, 2006 (Date) Bonnie R. Smith (Signature)

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RE: *Request for Certificate of Correction*
Patent No. 7,030,091
Dated: April 18, 2006
Entitled: "Non-Aqueous Injectable Formulation Preparation With pH Adjusted for Extended Release of Somatotropin"
Inventor(s): Daniel N. Heintz; Yunhua N. Jeng

Sir:

Enclosed are two originals of the form PTO-1050. Errors of a minor nature are thereon corrected. The errors in Column 1, line 7, and the errors in the Drawings legends are due to Patent Office oversights. The remaining two errors in the claims are Applicant's. A Certificate of Correction is requested under 35 U.S.C. § 254. The Commissioner is authorized to charge the fee of $100.00 to Deposit Account No. 08-3038/11916.0046.DVUS02 for filing this Certificate of Correction. Should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required or any overpayment be made for any reason relating to the enclosed materials, the Commissioner is authorized to deduct/credit the Deposit Account No. 08-3038/11916.0046.DVUS02 for same.

MAY 9 2006

Should you have any questions, please contact me directly at (713) 654-7678. Please forward any reply to this communication directly to Howrey LLP, c/o IP Docketing Department, 2941 Fairview Park Drive, Suite 200, Falls Church, VA 22042.

Respectfully submitted,

Dennis R. Chesire
Reg. No. 57,452

DRC:bks
Encls.

MAY 9 2006

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,030,091 B2

DATED : April 18, 2006

INVENTOR(S) : Daniel N. Heintz and Yunhua N. Jeng

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

✓ Drawings Sheet 1, Fig. 1, delete the first line of the legend and replace it with--Figure 1: Comparison of bST Release Profiles in Rodents--.

✓ Drawings Sheet 2, Fig. 3, delete the first line of the legend and replace it with--Figure 3: Comparison of bST Release Profiles in Cows--.

✓ Column 1, Line 7, after "now" delete [S.].

✓ Column 19, Line 1, after "of" first occurrence add --claim--.

✓ Column 19, Line 29, after "95%" delete the comma [,].

MAILING ADDRESS OF SENDER:
Dennis R. Chesire
HOWREY LLP
1111 Louisiana, 25th Floor
Houston, Texas 77002-5242

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,030,091 B2

DATED : April 18, 2006

INVENTOR(S) : Daniel N. Heintz and Yunhua N. Jeng

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Drawings Sheet 1, Fig. 1, delete the first line of the legend and replace it with--Figure 1: Comparison of bST Release Profiles in Rodents--.

Drawings Sheet 2, Fig. 3, delete the first line of the legend and replace it with--Figure 3: Comparison of bST Release Profiles in Cows--.

Column 1, Line 7, after "now" delete [S.].

Column 19, Line 1, after "of" first occurrence add --claim--.

Column 19, Line 29, after "95%" delete the comma [,].

MAILING ADDRESS OF SENDER:
Dennis R. Chesire
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JAN 20 2006

OFFICE OF PETITIONS

In re Application of :
Kazuyoshi Sakai :
Application No. 10/691,438 : ON PETITION
Filed: October 22, 2003 :
Attorney Docket No. 9319S-000565

This is a decision on the petition, filed January 12, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 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 2871 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/09/09

TO SPE OF : ART UNIT 2174

SUBJECT : Request for Certificate of Correction for Appl. No.: 10691441 Patent No.: 6990637 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 (C of C)
Randolph Square 9C62-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

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 is hereby approved.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Dennis-Doon Chow/ SPE. 2172

SPE Art Unit

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PORTSMOUTH, NH 03801

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DEC 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Michael J. Kardauskas et al :
Application No. 10/691,452 : DECISION ON PETITION
Filed: October 22, 2003 : TO MAKE SPECIAL UNDER
Attorney Docket No. SR.US.1 : 37 CFR 1.102(c)(2)
:

This is a decision on the petition under 37 CFR 1.102(c) (2)(ii), filed June 13, 2006, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The instant petition fails to provide any evidence of category (A) or (B). Petitioner indicates that the invention materially contributes to the discovery or development of energy resources by greatly increasing the amount of power that can be produced by a solar panel. Initially, it is noted that the application disclosure is directed to structures that use diffraction and/or refraction and reflection to redirect radiation incident on a three-dimensional diffraction pattern in particular diffraction modes at angles greater than a critical angle required for total internal reflection. The instant petition fails to meet the materiality standard of 37 CFR 102 (c)(2)(ii). Although the invention may by directed to the structures that use diffraction and/or refraction and reflection to redirect radiation incident on a three-dimensional diffraction pattern, the materiality standard of the rule has not been met, i.e., petitioner has failed to state how the claimed invention contributes in a significant, substantial, or noticeable manner to the conservation of energy resources. Accordingly it is unclear as to how the claimed invention would contribute in a significant manner to the development or conservation of energy resources.

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 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 1753 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JUL 27 2006

OFFICE OF PETITIONS

In re Application of :
Lu :
Application No. 10/691,474 : ON PETITION
Filed: October 21, 2003 :
Attorney Docket No. 021822-000200US :

This is a decision on the petition, filed June 6, 2006, 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 **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. No additional petition fee is required.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and 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. A review of the file record shows that a Request to Rescind was filed on June 6, 2006. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application.

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 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
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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Lu :
Application No. 10/691,474 : ON PETITION
Filed: October 21, 2003 :
Attorney Docket No. 021822-000200US :

This is a decision on the reconsideration petition, filed September 21, 2006 (certificate of mailing date September 18, 2006), under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 20, 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 March 29, 2007 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being forwarded to Technology Center Art Unit 2613 for examination in due course.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/691,474	10/21/2003	Kun Lu	021822-000200US

CONFIRMATION NO. 5026

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 12/15/2006

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 03/29/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of :
Jea-Woan Lee :
Application No. 10/691,476 : ON PETITION
Filed: October 23, 2003 :
Attorney Docket No. 1567.1059 :

This is a decision on the petition under 37 CFR 1.53 filed July 22, 2004, requesting that the above-identified application be accorded a filing date of October 23, 2003, including one (1) sheet of drawings. The petition was recently forwarded to this office for review.

The application was submitted on October 23, 2003. However, on June 23, 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, among other things, the application was deposited without drawings.

In response, on July 22, 2004, the instant petition was submitted. Petitioner argues that one (1) sheet of drawings was filed on October 23, 2003. In support, the instant petition is accompanied by a copy of applicants' postcard receipt that acknowledges receipt of "Drawings (1 sheet Fig. 1)" on October 23, 2003. A review of the application file indicates the presence of zero (0) sheets of drawings filed on October 23, 2003. It is assumed that the missing sheet of drawings was misplaced by the Office.

In view of the above, the petition is granted.

The petition fee will be refunded to deposit account no. 19-3935.

This application will be returned to OIPE for further processing with a filing date of October 23, 2003, using the one (1) sheet of drawings, supplied on July 22, 2004.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

In re Application of	:	
Blanco et al.	:	DECISION ON PETITION TO
Application Number: 10/691483	:	WITHDRAW HOLDING OF
Filing Date: 10/22/2003	:	ABANDONMENT
Attorney Docket Number: 9000/8	:	

This is a decision on the "REQUEST TO WITHDRAW NOTICE OF ABANDONMENT" which is treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed on December 5, 2007.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on November 27, 2007, stating that the application was abandoned for failure to timely file a proper reply to the non-final Office action mailed on May 7, 2007.

Petitioners assert that a timely reply was filed.

A review of the record reveals that petitioners are correct, in that an amendment was filed on November 7, 2007. The amendment included the statement "Any deficiencies may be charged to deposit account No. 50-1047."

As such, the showing of record is that the reply filed on November 7, 2007, was timely filed with a three (3) month extension of time. As petitioners have included an authorization to charge fees to counsel's deposit account, a constructive petition for extension of time is included.

The three (3) month extension of time fee will be charged to counsel's deposit account, as authorized.

As such, there is no abandonment in fact. The Office regrets the error.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 2621 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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McDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington DC 20005-3096

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MAY 2 4 2004

OFFICE OF PETITIONS

In re Application of
Nozawa et al.
Application No. 10/691,500
Filed: October 24, 2003
Attorney Dck't. No. 61352-050

: ON PETITION

This is a decision on the petition filed October 24, 2003, requesting (1) under 37 CFR 1.183 waiver of the provisions of 37 CFR 1.213(a) such that the above-identified application not be published, or, in the alternative, if the aforementioned relief not be granted, that (2) the concurrently filed Request for Non-Publication "be discarded."

The petitions are **dismissed**.

Petitioners assert that two counterpart Japanese applications (Nos. 2001-328807 and 2001-328808, both filed October 21, 2001) have been withdrawn such that they never have been published, and, as such, the "primary basis for allowing an application not to be published [having] been satisfied" petitioners request that the instant application not ne published other than by way of issuance as a patent. Petitioners further note that the PCT application of which benefit under 35 U.S.C. § 120 is claimed (No. PCT/JP02/11250 filed October 30, 2002) in this "bypass" application only designated the United States, and as such under PCT Article 64(3) the PCT application will not be published (unless this application is published).

As to waiver under 37 CFR 1.183

37 CFR 1.183, by its terms, cannot be invoked to overcome any requiremnt of the reguations that is also a requirement of the patent statute. Comparison of 35 U.S.C. § 122 (b)(i) with its promulgating regulation 37 CFR 1.213(a), reveals that both statute and regulation condition pre grant publication in the United States upon the mere **filing** of a counterpart application in a foreign country or under a multilateral international agreement that requires that applications be published at 18 months. That is, pre grant publication is clearly not also conditioned on the ultimate publication–or even the continuing pendency–of the counterpart application in the foreign country or under the multilateral international agreement; only the **filing**. Since the invention filed in the U.S. was the subject of the filed Japanese counter part applications, then the statutory condition warranting publication of the instant application has been met. It is immaterial that the counterpart Japanese applications were withdrawn or will not now be

published; that they were filed in a country that publishes applications in 18 months is the qualifying and triggering event for publication of the instant application. Accordingly, since petitioner seeks waiver of a condition that is statutory as well as regulatory, the requested waiver simply cannot be granted. The USPTO simply lacks the authority or discretion to relax any requirement of law. See Baxter Int'l, Inc. v. McGaw, Inc., 149 F.3d 1321, 1334, 47 USPQ2d 1225, 1234-1235 (Fed. Cir. 1998)(the PTO cannot, by rule, or waiver of the rules, fashion a remedy that contravenes 35 U.S.C. §§ 112, 120); A. F. Stoddard v. Dann, 564 F.2d 556, 566, 195 USPQ 97, 105 (D.C. Cir 1977), (since the USPTO is an executive branch agency, it must follow the strict provisions of the applicable statute). Here, the USPTO lacks the authority and the discretion to waive the language of 37 CFR 1.213(a) as that language is also statutory. See 35 USC 122(b)(i). Peittioner's comment about the "primary objective" of the non publication provision of the rule, which also appears in the statute, is not persuasive. Whatever may be the Primary objective of Congress when it legislates is immaterial if that objective does not appear in the statute.[1] Since the statute conditions U.S. publication on the mere filing of a counterpart application, the USPTO cannot waive the statutory requirement for publication of this application, notwithstanding the withdrawal and consequent non publication of the counterpart Japanese applications.

As to the requested "discard" of the Non Publication request

The meaning of petitioner's request is not clear. Petitioner is reminded that a given paper may, under appropriate circumstances, be expunged under 37 CFR 1.59(b), or, say, a non publication request may be "rescinded" if the requirements of the controlling rule are met. See 37 CFR 1.213(b)(1)-(b)(3). Since the request for "discard" is bundled within a paper styled as a petition for the Office of Petitions, this request lacks compliance with 37 CFR 1.4(c). Petitions under 37 CFR 1.59(b) are decided by the Technology Center, and requests for rescission under 37 CFR 1.213(b)(1)-(b)(3) are treated by Pre Grant Publication Division. As such, it would be improper speculation for the Office of Petitions to attempt to divine petitioner's meaning and then itself act on petitioner's request. Petitioner is invited to restate the request in a separate paper dedicated to that purpose and appropriately captioned, and resubmit the amended request to the appropriate part of the USPTO. Chapter 1000 of the MPEP provides

---

[1] As the Federal Circuit noted when construing § 254 in Southwest Software v. Harlequin, 226 F.3d 852, 56 USPQ2d 1161 (Fed. Cir. 2000):

> We begin the process of statutory interpretation with the language of the statute. See Van Wersch v. Department of Health &Human Servs., 179 F.3d 1144, 1148 (Fed. Cir. 1999) (citing VE Holding Corp. v. Johnson Gas Appliance Co., 917 F.2d 1574, 1579, 16 USPQ2d 1614, 1618(Fed. Cir. 1990)). If the language is clear, the plain meaning is conclusive. See id. at 1152 (holding that Congressional intent, as clearly expressed in legislative history, could not "trump the irrefutably plain [statutory] language that emerged when Congress actually took pen to paper").

guidance as to the delegated authority within the USPTO for treating various requests. As a courtesy, a copy of a request for rescission of a prior non publication request is being enclosed with this decision.

Telephone inquiries relative to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure:
Blank form captioned "Rescission of Previous Non Publication Request"

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/8/06

Paper No.: _____

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/691573 Patent No.: 6987690

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**.

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: TL

SPE

2827
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100224

DATE : January 21, 2010

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.: 7,208,306

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/ANDREW WANG/
Supervisory Patent Examiner.Art Unit 1652

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060703

DATE : July 3, 2006

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction on Patent No.: 6970668

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: David M. Gray **Art Unit** 2852

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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GREER, BURNS & CRAIN, LTD.
SUITE 2500
300 SOUTH WACKER DRIVE
CHICAGO IL 60606

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of :
Kazuhito YANADORI :
Application No. 10/691,583 : DECISION ON PETITION
Filed: October 24, 2003 :
Attorney Docket No. **4386.77980** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 15, 2008, with a certificate of mailing date February 11, 2008 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of November 26, 2007 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 27, 2008. See MPEP 1214.06.

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. Accordingly, the reply to decision by the Board of Patent Appeals and Interference November 26, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1794 for appropriate action on the concurrently filed request for Continued Examination.

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
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PATENT LAW OFFICES OF RICK MARTIN, PC
P.O. BOX 1839
LONGMONT, CO 80502

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JAN 18 2008

OFFICE OF PETITIONS

In re Application of :
Gary Peterson :
Application No. 10/691,591 : ON PETITION
Filed: October 24, 2003 :
Attorney Docket No. JHM1241 :

This is a decision on the petition under 37 CFR 1.137(b), filed on February 27, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed March 21, 2006. A Notice of Abandonment was mailed on December 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application file is being referred to Technology Center Art Unit 2875, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Rick Martin
Patent Law Offices of Rick Martin, PC
416 Coffman Street
Longmont, CO 80501

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/1/08

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction on Patent No.: 7253383B2

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.

Rof not initialed / lined through - is it approved?

D. Irvine
Certificates of Correction Branch
Tel. No. 703-308-9590

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:

Yes, It is Approved

DANIEL ROBINSON
PRIMARY EXAMINER

TU BA HOANG
SUPERVISORY PATENT EXAMINER

SPE

3742
Art Unit

PTO/SB/ 44 (08-00)
Approved for use through 09/30/2000. 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

Ser. No. 10691595
PATENT NO : 7,253,383 B2

DATED : August 7, 2007

INVENTOR(S) : Heui Seag PARK

On the Title Page (56)

Page 1, Column 2 (Other Publications), Line 1, below
"U.S. Appl. No. 10/690,660, filed Oct. 23, 2003, Heui Seag Park." insert
--Patent Abstract of Japan for Japanese Publication No. 11-16740, Published 01/22/1999.--.

MAILING ADDRESS OF SENDER:
STAAS & HALSEY LLP
1201 New York Ave., N.W.
7th Floor
Washington, DC 20005

PATENT NO. 7,253,383

No. of add'l copies
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JAN 17 2008

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OFFICE OF PETITIONS

STEPHEN R. GREINER, ESQUIRE
GREINER LAW OFFICES, P.C.
6701 DEMOCRACY BLVD., SUITE 110
BETHESDA, MD 20817

In re Application of
Mark J. Verkamp
Application No. 10/691,626 .
Filed: October 24, 2003
Attorney Docket No. 3818.00

ON PETITION

This is a decision in response to the petition, filed June 25, 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 July 14, 2006. A Notice of Abandonment was mailed on January 24, 2007. In response, on June 25 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(d) requires that any petition to revive in either a utility or plant application filed before June 8, 1995, be accompanied by a terminal disclaimer and fee as set forth in §1.321. Since this application is filed *after* June 8,1995, no terminal disclaimer and fee are required. Accordingly, the terminal disclaimer filed June 25, 2007 is **not** accepted and $65 fee paid therefor is subject to refund.

Also, extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, petitioner is entitled to a refund of the $510 extension fees included with this petition.

Any request for refund of the fees noted above must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

The application is being referred to Technology Center AU 3637 for consideration of the amendment filed June 25, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/6/08 **Paper No.:** —

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/691628 Patent No: 7189715 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX.**

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

Joseph K McKane
JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1626
Art Unit

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Peter L. Kendall
Roylance, Abrams, Berdo & Goodman, L.L.P.
Suite 600
1300 19th Street, N.W.
Washington, DC 20036

Mail Date: 04/21/2010

Applicant	: Min-Goo Kim	: DECISION ON REQUEST FOR
Patent Number	: 7594153	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/691,644	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **540** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Peter L. Kendall
Roylance, Abrams, Berdo & Goodman, L.L.P.
Suite 600
1300 19th Street, N.W.
Washington, DC 20036

Mail Date: 05/18/2010

Applicant : Min-Goo Kim
Patent Number : 7594153
Issue Date : 09/22/2009
Application No: 10/691,644
Filed : 10/24/2003

: 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 **597** 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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Mr. Christopher John Rourk
GODWIN GRUBER, LLP
1201 Elm Street, Renaissance Tower
DALLAS TX 75270

In re Application of
Joe W. Duran, et al.
Appl. No.: 10/691,675
Filed: October 22, 2003
For: **CENTRALIZED SERVER METHODOLOGY FOR COMBINED AUDIO AND VIDEO CONTENT**

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition filed July 28, 2005, to expunge information from the above identified application pursuant to 37 CFR 1.59(b).

The petition is **Granted**.

Petitioner requests that the preliminary amendment filed June 24, 2005, be expunged from the record. Petitioner states that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material (12-page preliminary amendment) has been closed from the electronic file.

Dwayne Bost
Special Programs Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 10 2005

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Application of:	:	
	:	NOTICE OF WITHDRAWAL
Application No. 10/691,678	:	FROM ISSUE
Filed: 10/23/2003	:	UNDER 37 CFR § 1.313
Attorney Docket No. IIP-112-A	:	

The above-identified application is withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue.

United States Patent and Trademark Office (USPTO) records indicate that the issue fee has not yet been submitted. If the issue fee and publication fee has been submitted, applicant may request: (1) a refund; or, (2) that the fee be credited to a deposit account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified in the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner Glenn Dayoan at (571) 272-6659.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Robert Oberleitner, Director
Technology Center 3600

Carrier Blackman and Associates
24101 Novi Road
Suite 100
Novi, MI 48375

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Patent No. 7,344,520 :
Issue Date: March 18, 2008 :
Application No. 10/691,690 : DECISION ON PETITION
Filed: October 23, 2003 :
Attorney Docket No. KITO2.001DV4 :

This is a decision on the "PETITION UNDER 37 C.F.R. § 3.81 TO STATE THE NAME OF THE ASSIGNEE", filed May 30, 2008.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

The $130 processing fee set forth in 37 CFR 1.17(i) and the $100 fee for the Certificate of Correction have been charged to Deposit Account No. 11-1410, as authorized.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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STEVENS, DAVIDS, MILLER & MOSHER, LLP
Suite 850
1615 L. Street
Washington, DC 20036

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OFFICE OF PETITIONS

In re Patent No. 7,093,433

Issue Date: August 22, 2006

Application No. 10/691,699

Filed: October 24, 2003

Attorney Docket No. **APV31659**

ON PETITION

This is a decision on the "Request for Certificate of Correction" filed August 1, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of :
Steve A. Jacob :
Application No. 10/691,713 : DECISION GRANTING PETITION
Filed: October 22, 2003 :
Attorney Docket No. 200207564-1 :

This is a decision on the petition filed April 5, 2004, that is responsive to the "Notice of Incomplete Nonprovisional Application" (the "Notice") mailed January 26, 2004.

On October 22, 2003, the application was deposited.

On January 26, 2004, the Office of Initial Patent Examination mailed the Notice stating a filing date had not been accorded the application because drawings did not accompany the original disclosure. The Notice allowed a period for response of two months from its mailing date. The instant petition was filed on April 5, 2004, along with eight sheets of drawings and a declaration. Petitioner argues that, although the drawings did not accompany the application papers, the drawings were not necessary to the understanding of the invention claimed.

It has been determined that drawings are not, in fact, necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO 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). A review of the record reveals that Claim 1 is a method claim. Therefore, the present application is deemed to be an application that does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, was entitled to the filing date of October 22, 2003.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of October 22, 2003. Prior to the first action on the merits, petitioner should file a preliminary amendment requesting of the drawings, if desired.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 06/02/2010

Applicant	: Cornelia Berghof	: DECISION ON REQUEST FOR
Patent Number	: 7659381	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/691,731	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **895** 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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JJGJR.: 09-07

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OFFICE OF PETITIONS

PATENT COUNSEL
APPLIED MATERIALS, INC.
Legal Affairs Department
P.O. BOX 450A
Santa Clara CA 95052

In re Application of :
Shur, et al. : DECISION
Application No.: 10/691,746 :
Filing Date: 22 October, 2003 :
Attorney Docket No. 8640 :

This is a decision on the petition(s) filed on 20 April, 2007, to revive the instant application as abandoned, alternatively, due to unavoidable or unintentional delay (37 C.F.R. §1.137(a) or (b)).

Petitioner entitled his papers as a petition under 37 C.F.R. §1.137(a) and authorized the fee (now charged), but failed to make a showing thereof, and, alternatively, paid a fee for a petition under 37 C.F.R. §1.137(b) and made a statement of unintentional delay. Out of an abundance of caution, the Office addresses herein both matters.

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.[1]

[1] NOTES:

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Moreover, Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(a) **DISMISSED**; the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply to the Notice of Non-Compliant Amendment mailed on 2 November 2006, with reply, due absent extension of time on or before 2 December, 2006;
- the application went abandoned by operation of law after midnight 2 December, 2006;
- the Office mailed the Notice of Abandonment on 5 April, 2007;
- on 20 April, 2007, Petitioner filed the instant petition, reply in the form of an amendment and while Petitioner entitled his paper as a petition under (37 C.F.R. §1.137(a) and authorized the fee (now charged to Deposit Account 50-1074, Petitioner failed to make a showing thereof, however, Petitioner paid a fee for petition under 37 C.F.R. §1.137(b) and made a statement of unintentional delay.

As noted above, out of an abundance of caution, the Office addresses herein both matters .

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent 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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

---

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

As to the Allegations
of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has not satisfied the "showing" requirements of the regulation.

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the regulatory requirements.

CONCLUSION

The petition under 37 C.F.R. §1.137(a) is **dismissed**, however, the petition under 37 C.F.R. §1.137(b) is **granted**.

---

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

The instant application is released to Technology Center 2800 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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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Janis J. Biksa
Medtronic Vascular, Inc.
IP Legal
3576 Unocal Place
Santa Rosa, CA 95403

Mail Date: 04/21/2010

Applicant	: Jack D. Pryor	: DECISION ON REQUEST FOR
Patent Number	: 7635382	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/691,747	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1116** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Janis J. Biksa
Medtronic Vascular, Inc.
IP Legal
3576 Unocal Place
Santa Rosa, CA 95403

Mail Date: 05/18/2010

Applicant : Jack D. Pryor
Patent Number : 7635382
Issue Date : 12/22/2009
Application No: 10/691,747
Filed : 10/22/2003

: 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 **1179** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 25, 2006

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/691750 patent No.: 7,056,493

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: _____

Michael G. Hartley — **SPE**

1618 — **Art Unit**

MICHAEL G. HARTLEY
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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SEP 11 2006

OFFICE OF PETITIONS

In re Application of :
Webb, et al. :
Application No. 10/691,751 : DECISION ON PETITION
Filed: October 22, 2003 : TO WITHDRAW
Attorney Docket No. 256.166US1 : 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 10, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "discontinuation of client/attorney relationship", does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed June 15, 2006 that requires a response by the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ARMSTRONG TEASDALE
ONE METROPOLITIAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102-2740

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SCHWEGMAN, LUNDBERG & WOESSNER, PA
PO BOX 2938
MINNEAPOLIS, MN 55402

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of :
Winston S. Webb, et al. :
Application No. 10/691,751 : DECISION ON PETITION
Filed: October 22, 2003 : TO WITHDRAW
Attorney Docket No. H004757 (256.166US1) : 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 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 Bradley A. Forrest on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

The application became abandoned for failure to timely respond to the Office action mailed June 15, 2006.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: WINSTON S. WEBB
3592 CAMELIA PLACE
LARGO, FL 33771

cc: ARMSTRONG TEASDALE
ONE METROPOLITAIN SQUARE
SITE 2600
ST LOUIS, MO 63102-2740

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/691,751	10/22/2003	Winston S. Webb	H004757 (256.166US1)

CONFIRMATION NO. 7769

POWER OF ATTORNEY NOTICE

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

OC000000030512008

Date Mailed: 06/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/20/2006.

- 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.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/22/2010

Applicant	: Scot Cuthbertson	: DECISION ON REQUEST FOR
Patent Number	: 7611382	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/691,753	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1182** 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

HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY NJ 07110

In re Patent of Flohr, et al.	:	
Patent No.: 7,019,001	:	Decision on Request for Reconsideration
Issue Date: March 28, 2006	:	of Patent Term Adjustment
Application No.: 10/691,770	:	and Notice of Intent to Issue
Filing Date: October 23, 2003	:	Certificate of Correction
Attorney Docket No. 21031US1	:	

This is a decision in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION" filed May 15, 2006, which in essence requests that the Patent Term Adjustment for the above-identified patent be set at 183 days.

The request for reconsideration of the patent term adjustment indicated on the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred eighty three (183) days.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed with the Notice of Allowance on September 19, 2005 stated the patent term adjustment to date was 183 days. Applicants state that a second Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was forwarded to applicants with the Issue Notification. The second Determination of Patent Term Adjustment under 35 U.S.C. 154(b) stated the patent term adjustment would be 63 days. The application matured into Patent No. 7,019,001 on March 28, 2006. The printed patent shows a revised Patent Term Adjustment of 63 days. The revised adjustment determination was calculated as follows:

> The initial determination of PTA of 183 days was reduced by 120 days because applicants filed a "miscellaneous incoming letter" on October 6, 2005, which was filed after the mailing of a Notice of Allowance on September 19, 2005.

The instant request was timely filed within 2 months of the date the patent issued. See 37 CFR 1.705(d).

The request contends that there were no circumstances within this case history that constitute a failure by the Patentees to engage in reasonable efforts to conclude processing or examination of the above-identified application as set forth in 37 CFR § 1.704. In essence, Patentees dispute the sole reduction of record, one for 120 days associated with the filing of a "miscellaneous incoming letter" received in the Office on October 6, 2005. Patentees state that the paper filed with the response to the Notice of Allowance and Allowability was a Statement of the Substance of the Interview, said interview took place on July 19, 2005 with Examiner Shameem; however, the Interview Summary was first mailed to applicants on September 19, 2005.

Patentees' contention is well taken. The OG Notice states that:

> ... the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

A Statement of Substance of the Interview is not among those examples. Example (6) refers to a Comment on the Examiner's Reasons for Allowance and does not encompass the Statement. Nonetheless, it is concluded that under the circumstances, the Statement of Substance of the Interview should not be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10). Thus, it is concluded that the reduction of 120 days of patent term is not warranted.

In view of the facts above, the patent term adjustment indicated on the patent should have been one hundred eighty three (183) days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by ONE HUNDRED EIGHTY THREE (183) days subject to any disclaimers.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,019,001

DATED : March 28, 2006

INVENTOR(S) : Alexander Flohr, et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (63) days

Delete the phrase "by 63 days" and insert – by 183 days--

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MARK S. PELOQUIN
PELOQUIN, PLLC
SUITE 4100
800 FIFTH AVENUE
SEATTLE, WA 98104-3100

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OFFICE OF PETITIONS

In re Application of	:	
Howard M. Lee	:	
Application No. 10/691,777	:	DECISION ON PETITION
Filed: October 22, 2003	:	
Attorney Docket No. 062403.P001	:	

This is a decision on the petition, filed August 3, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Non-Final Office action mailed January 6, 2009, which set a three-month shortened statutory period for reply. Accordingly, a reply was due on or before July 6, 2009, with a three (3) month extension of time.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the Express Mail label receipt No.EB583248349 and a copy of the return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on July 6, 2009. A copy of the previously submitted reply accompanies the petition.

The reply acknowledged as having been received in the USPTO on July 6, 2009, is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was timely received in the USPTO.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The application is being referred to the Office of Patent Application Processing (OPAP) for further processing.

Telephone inquires related to this decision should be directed to Alicia Kelley at (571) 272-6059. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

Chris Bottorff
Petitions Examiner
Office of Petitions

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

Applicant	: Takashi Fujimori	: DECISION ON REQUEST FOR
Patent Number	: 7573878	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/691,829	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1602** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Townsend And Townsend And Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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JUL 28 2006

OFFICE OF PETITIONS

In re Application of :
Michael V. CHOBOTOV :
Application No. 10/691,849 : DECISION ON PETITION
Filed: October 22, 2003 : TO WITHDRAW
Attorney Docket No. 021630-004600US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 1, 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 the signature of the requesting attorney Nicholas V. Sherbina was omitted.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272- 7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Daniel A. Scola, Jr., Esq.
Hoffman & Baron
1055 Parsippany Boulevard
Parsippany, NJ 07054

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
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LOS ANGELES, CA 90025-1030

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FEB 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Tae Woong Kang et al :
Application No. 10/691,852 : DECISION GRANTING PETITION
Filed: October 22, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5882P061 :

This is a decision on the petition, filed February 1, 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 5, 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 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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Paper No. None

Sharlene Shaw
8005 So Eberhart
Chicago IL 60619

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JUL 17 2006

OFFICE OF PETITIONS

In re Application of :
Sharlene Shaw :
Application No. 10/691,862 : DECISION ON PETITION
Filed: July 26, 2004 : UNDER 37 C.F.R. §1.181(A)
Title: 2-IN-1 TEE-N-BIBS :

This is a decision on the petition filed May 4, 2006, pursuant to 37 C.F.R. §1.181(a), to revive the above-identified application.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 27, 2004, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 28, 2004. A notice of abandonment was mailed on April 7, 2006.

It is noted that an untimely amendment was received on March 31, 2005.

With the present petition, Petitioner has asserted that a misunderstanding occurred with the Office, and that "the original date that was in question was a November 2004 date, that why I sent the fax information that is enclosed on March 1, 2006." The meaning of this sentence cannot be ascertained by the undersigned. Perhaps she is attempting to assert that the papers were submitted to the Office previous to March 1, 2005? The papers Petitioner has included with her petition have been reviewed, and it does not appear that any of them were submitted to the Office in a timely manner.

RELEVANT PORTIONS OF THE C.F.R.

§ 1.6(d)(3) Receipt of correspondence.

(d) Facsimile transmission. Except in the cases enumerated below, correspondence, including authorizations to charge a deposit account, may be transmitted by facsimile. The receipt date accorded to the correspondence will be the date on which the complete transmission is received in the United States Patent and Trademark Office, unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia. See § 1.6(a)(3). To facilitate proper processing, each transmission session should be limited to correspondence to be filed in a single application or other proceeding before the United States Patent and Trademark Office. The application number of a patent application, the control number of a reexamination proceeding, the interference number of an interference proceeding, or the patent number of a patent should be entered as a part of the sender's identification on a facsimile cover sheet. Facsimile transmissions are not permitted and, if submitted, will not be accorded a date of receipt in the following situations:

(3) Correspondence which cannot receive the benefit of the certificate of mailing or transmission as specified in § 1.8(a)(2)(i)(A) through (D) and (F), and § 1.8(a)(2)(iii)(A), except that a continued prosecution application under § 1.53(d) may be transmitted to the Office by facsimile;

§ 1.8 Certificate of mailing or transmission.

(a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

(2) The procedure described in paragraph (a)(1) of this section does not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on, the following:

(i) Relative to Patents and Patent Applications-

(A) The filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date, including a request for a continued prosecution application under § 1.53(d);

§ 1.134 Time period for reply to an Office action.

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

[47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

§ 1.135 Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

[Paras. (a), (b), and (c), 47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; para. (d) deleted, 49 FR 555, Jan. 4, 1984, effective Apr. 1, 1984; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

ANALYSIS

As set forth above, the non-final Office action was mailed on September 27, 2004, and set a three-month period for reply. As such, a response was due no later than December 28, 2004. Petitioner's response arrived on March 1, 2005. The papers contained therein are dated February 18, 2005 and December 21, 2004, however the submission does not appear to contain a certificate of mailing. As such, the actual date of receipt must be used, pursuant to 37 C.F.R. §1.8(a), and it follows that the response was not timely submitted. As such, the response could not be accepted, and the present application was properly held to be abandoned, pursuant to 37 C.F.R. §1.135.

CONCLUSION

Therefore, the petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C 704.

Petitioner may wish to consider the submission of a petition under 37 C.F.R. §§1.137(a) and/or (b).

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

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

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None

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DEC 0 1 2006

OFFICE OF PETITIONS

Sharlene Shaw
8005 So Eberhart
Chicago IL 60619

In re Application of :
Sharlene Shaw :
Application No. 10/691,862 : DECISION ON PETITION
Filed: July 26, 2004 : UNDER 37 C.F.R. §1.137(B)
Title: 2-IN-1 TEE-N-BIBS :

This is a decision on the petition filed on August 22, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 27, 2004, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 28, 2004. An untimely amendment was received on March 1, 2005, and a notice of abandonment was mailed on April 7, 2006.

A petition pursuant to 37 C.F.R. §1.181 was filed on May 4, 2006, and was dismissed via the mailing of a decision on July 17, 2006.

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1 A grantable petition pursuant to 37 C.F.R. 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. A terminal disclaimer is not required. The amendment of March 1, 2005 shall serve as the required reply.

As such, the petition is **GRANTED**.

The Technology Center will be made aware of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment of March 1, 2005 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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McDERMOTT, WILL & EMERY
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BOSTON, MA 02109-1775

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of :
Paul A. Ward et al :DECISION ON PETITION
Application No. 10/691,866 :UNDER 37 CFR 1.78(a)(3)
Filed: October 23, 2003 :
Attorney Docket No. CSLL-639CN(56247-) :

This is a decision on the petition, filed January 21, 2005, which is being treated under 37 CFR § 1.78(a)(3), requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional Application No. 09/837,827, filed April 18, 2001, as set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR § 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

The instant pending nonprovisional application was filed on October 23, 2003, and was pending at the time of filing of the instant petition. Reference to the prior-filed application was made in the transmittal letter filed with the instant application.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §1.78(a)(3).[1] In the instant case, the Office noted the claim for priority of the above-noted, prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, no petition fee is required and none has been charged.

Any questions concerning this decision on petition 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 the Examiner of Technology Center AU 2631 for processing of the request for continued examination under 37 CFR 1.114 and for appropriate action on the amendment filed January 21, 2005, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for benefit of the above-noted, prior-filed application.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SHOOK, HARDY & BACON L.L.P.
(MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

Mail Date: 04/21/2010

Applicant	: Sterling Reasor	: DECISION ON REQUEST FOR
Patent Number	: 7620679	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/691,872	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **819** 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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LONG BEACH CA 90803

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APR 3 0 2004

OFFICE OF PETITIONS

In re Application of
Rabello
Application No. 10/691,892
Filed: October 23, 2003
Attorney Docket No. Rabello
For: DOG LEASH HANDLE

DECISION ON
PETITION

This is a decision on the petition filed March 8, 2004 (certificate of mailing date March 4, 2004) requesting that Figures 4, 5, 6, and 7 be accorded a filing date of October 23, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was filed on October 23, 2003. On January 26, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice) informing petitioner, *inter alia*, that Figures 4, 5, 6, and 7, as described in the specification, appeared to have been omitted.

Petitioner requests that Figures 4, 5, 6, and 7 be accorded a filing date of October 23, 2003 on the basis that 3 sheets of drawing figures, including Figures 4, 5, 6, and 7, were received in the Patent and Trademark Office (PTO) on October 23, 2003. In support, the instant petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing October 23, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 3 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 3 sheets of drawing figures were filed on October 23, 2003. MPEP 503. A review of the application file reveals that there are only 2 sheets of drawing figures present.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**. Pursuant to petitioner's authorization, the $130.00 petition fee submitted on March 8, 2004 (certificate of mailing date March 4, 2004) will be credited to petitioner's credit card.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **October 23, 2003**, using the copy of Figures 4, 5, 6, and 7 submitted with the instant petition. Office records will be corrected to show that 3 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

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MAR 29 2004

In re Application of	:	
Alvin S. Blum	:	
Serial No. 10/691,893	:	DECISION ON PETITION
Filed: October 23, 2003	:	TO MAKE SPECIAL
For: WORLD GLOBE WITH DETAIL DISPLAY	:	

Applicant's petition, filed October 23, 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

Alvin S. Blum
2350 Delmar Place
Fort Lauderdale, FL 33301

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OFFICE OF PETITIONS

F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

In re Application of	:
Beehler, et al.	: DECISION GRANTING
Application No. 10/691,918	: STATUS UNDER 37 CFR
Filed: October 23, 2003	: 1.47(a)
Docket No.: 8002AC-88	:
For: SYSTEM AND METHOD FOR	:
CONTROLLING A VEHICLE	:
SECURITY SYSTEM	:

This decision is in response to the petition under 37 CFR 1.47(a), filed August 6, 2004.

The petition under 37 CFR 1.47 is **GRANTED**.

Petitioner has shown that inventor David Showalter either cannot be reached despite diligent effort or has refused to sign the declaration after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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PABST PATENT GROUP LLP
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1201 PEACHTREE STREET
ATLANTA GA 30361

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MAY 14 2008

OFFICE OF PETITIONS

In re Application of :
HIRSH, Jane et al. :
Application No. 10/691,936 : DECISION ON PETITION
Filed: October 23, 2003 : TO WITHDRAW
Attorney Docket No. **CP 107M (2)** : 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 15, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, client has transferred this application, does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **ROBERT M. SCHULMAN**
HUNTON & WILLIAMS LLP
1900 K STREET, NW
WASHINGTON, DC 20006-1109

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SUITE 1400
ARLINGTON, VA 22201

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OFFICE OF PETITIONS

In re Application of :
Ratan K. Chaudhuri :
Application No. 10/691,959 : DECISION ON PETITION
Filed: October 24, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. EMIC-0055 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 13, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/424,712, filed November 8, 2002, as set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1614 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Frances Hicks
Petitions Examiner
Office of Petitions

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
10/691,959	10/24/2003	1655	1026	EMI-55		27	3

CONFIRMATION NO. 6979

CORRECTED FILING RECEIPT

23599
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

OC000000018920169

Date Mailed: 05/23/2006

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)

Ratan K. Chaudhuri, Lincoln Park, NJ;

Power of Attorney:

John White--17746
I Millen--19544
Alan Branigan--20565
John Moses--24983
Anthony Zelano--27969
Richard Traverso--30595
Harry Shubin--32004
Brion Heaney--32542
John Sopp--33103
Richard Lebovitz--37067

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/424,712 11/08/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/691,959

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for protection of skin against sun-induced damage by oral administration of an extract of Emblica officinalis (syn. Phyllanthus emblica)

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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JAN 26 2007

OFFICE OF PETITIONS

ROBERT PLATT BELL
REGISTERED PATENT ATTORNEY
P.O. BOX 13165
JEKYLL ISLAND, GA 31527

In re Application of :
Robert Garrett :
Application No. 10/691,967 : ON PETITION
Filed: October 24, 2003 :
Attorney Docket No. GARR-0009

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed on December 11, 2006. This is also a decision on the petition under 37 CFR 1.137(b), filed alternatively, on December 11, 2006.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The record reflects that a non-final Office action was mailed on September 27, 2005, allowing a shortened statutory period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A response was filed on March 30, 2006 (certificate of mailing dated March 27, 2006), with a request for an extension of time within the third month. A Notice of Abandonment was mailed on November 29, 2006, stating that the response of March 30, 2006, was not a bona fide response because amended claims and remarks did not accompany the substitute specification and marked-up copy of the specification filed. The instant petition was filed on December 11, 2006. Petitioner maintains that a proper response was filed on March 30, 2006, and included remarks and claims.

TREATMENT UNDER 37 CFR 1.181

The Patent and Trademark Office (the Office) file is the official record of the papers originally filed in this application. A review of the application file did not reveal claims or remarks filed March 30, 2006. In order for this petition to withdraw the holding of abandonment to be successful, petitioner must establish, by *prima facie* evidence, that claims and remarks were filed on March 30, 2006. Such *prima facie* evidence would include an itemized Office date-stamped postcard whereby the Office acknowledges receipt of the claims and remarks on March 30, 2006. Other *prima facie* evidence might include a copy of the claims and remarks containing a certificate of mailing dated on, or before, March 27, 2006. The evidence provided with the petition establishes that a response was filed on March 30, 2006, but does not provide *prima facie* evidence of what was received. Because the abandonment of the application hinges on the receipt or non-receipt of the claims and remarks, the holding of abandonment cannot be with withdrawn absent *prima facie* evidence of the Office's receipt of the claims and remarks. The petition is dismissed, accordingly.

It is noted that petitioner has filed a request for the petition to be treated under 37 CFR 1.137(a). The undersigned has determined that the petition under 37 CFR 1.137(a) is not likely to be successful. Accordingly, the petition will be not be treated under 37 CFR 1.137(a) to avoid the petition fee that will be incurred if the petition was treated on it merits under 37 CFR 1.137(a).

TREATMENT UNDER 37 CFR 1.137(b)

The petition under 37 CFR 1.137(b) is granted.

Deposit account 50-1393 will be charged $750.00 for the instant petition fee.

The claims and remarks filed December 11, 2006, are noted.

The application file is being directed to Technology Center 3700, GAU 3724 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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GARY L. SHAFFER
901 BANKS PLACE
ALEXANDRIA VA 22312

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SEP 27 2006

OFFICE OF PETITIONS

In re Application of
Ianniello et al.
Application No. 10/691,975
Filed: October 24, 2003
Attorney Docket Number: 29641-836569
Title of Invention: High-Flow Void-Maintaining Membrane Laminates, Grids and Methods

ON PETITION

This is a decision on the petition filed July 10, 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 22, 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 23, 2006. A supplemental Notice of Allowance was mailed on January 30, 2006. A Notice of Abandonment was mailed April 11, 2006.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

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.

Copied from 10691795 on 07/16/2007

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Petitions Attorney

Office of Petitions

cc: Gary M. Nath
Nath & Associates PLLC
112 South West Street
Alexandria, VA 22314-2891

Copied from 10691795 on 07/16/2007

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060608

DATE : June 8, 2006

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 6,989,178

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:

GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER

SPE: Gladys JP Corcoran **Art Unit** 1744

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APR 2 4 2007

Technology Center 2100

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

In re Application of:
Mark N. Billinghurst et al.
Application No. 10/692,020
Filed: October 22, 2003
For: TRACKING A SURFACE IN A 3-DIMENSIONAL SCENE USING NATURAL VISUAL FEATURES OF THE SURFACE

DECISION ON PETITION UNDER 37 C.F.R. 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. 1.84(a)(2), filed November 2, 2004 requesting acceptance of color drawings.

The petition requests that the color drawings, although not specifically identified but noted as, figures 1,4,5,6A-6B,7,9A-9C,10A-10B,11A-11D,12A-12B,13,14A-14B,15A-15B,16A-16H and 17A-17D be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed with the required fee, three (3) sets of color drawings of Figures 3 and 6 and an amendment to the specification at page 3, containing the required notification described above.

The petition is **GRANTED**.

The application file is being forwarded to the examiner for processing the response to Non-final Office action filed January 26, 2007.

Kakali Chaki
Quality Assurance Specialist
Technology Center 2100

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Paper No. 080404

MYERS BIGEL SIBLEY & SAJOVEC
P.O. BOX 37428
RALEIGH, NC 27627

AUG 10 2004

In re Application of:
DONG-GYU KIM
Serial No.: 10/692,033
Filed: October 23, 2003
Attorney Docket No.: **9649-288DVCT**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed February 23, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Robert N Crouse, 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 Hae-Chan Park, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: HAE-CHAN PARK
MCGUIRE WOODS LLP
1750 TYSONS BOULEVARD, SUITE 1800
MCLEAN, VA 22102-4212

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PATRICK G. BURNS
GREER, BURNS & CRAIN, LTD.
SUITE 2500
300 SOUTH WACKER DRIVE
CHICAGO IL 60606

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APR 14 2006

OFFICE OF PETITIONS

In re Application of :
Akihiro Inomata :
Application No. 10/692,035 : ON PETITION
Filed: October 23, 2003 :
Attorney Docket No. 0941.68545 :

This is a decision on the petition, filed April 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 10, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Petitioner should be aware that some of the papers submitted on April 13, 2006, reference Application No. **10/962,035** instead of **10/692,035**.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1773 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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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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LEE & HAYES, PLLC
421 W. RIVERSIDE AVE.
SUITE 500
SPOKANE WA 99201

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NOV 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Tanielian, Minas	:	
Application No. 10/692,039	:	DECISION ON PETITION
Filed: October 22, 2003	:	
Attorney Docket No. BO1-0293US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 5, 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, (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 3600 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATRICK D. KELLY
11939 MANCHESTER #403
ST. LOUIS, MO 63131

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MAY 22 2006

OFFICE OF PETITIONS

In re Application of :
Patrick D. Kelly :
Application No. 10/692,057 : DECISION GRANTING PETITION
Filed: October 23, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. RKT-LIFT :

This is a decision on the petition under 37 CFR 1.137(b), filed January 17, 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 November 5, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 8, 2005 (February 5, 2005, the due date, is a Saturday). A Notice of Abandonment was mailed on June 20, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply/amendment to the non-final Office action of November 5, 2004; (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of November 5, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3644 for appropriate action in due course on the reply and Information Disclosure Statement received January 17, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Joe M. Wood, et. al. :
Application No. 10/692,088 : ON PETITION
Filed: October 23, 2003 :
Attorney Docket No. VTN-5003-USA-NP :

This is a decision on the petition under 37 CFR 1.137(b), filed on January 29, 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 January 12, 2006. A Notice of Abandonment was mailed on September 21, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $790filing fee; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 1746, 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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ROHM AND HAAS ELECTRONIC MATERIALS
CMP HOLDINGS, INC.
451 BELLEVUE ROAD
NEWARK DE 19713

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APR 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Jinru Bian :
Application Number: 10/692093 : ON PETITION
Filing Date: 10/22/2003 :
Attorney Docket Number: 02005US :
:

This is a decision on the "PETITION UNDER CFR 1.183" filed on August 8, 2007, which is treated as a petition to withdraw the holding of abandonment.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on May 5, 2006. Notice of Abandonment was mailed on August 6, 2007.

Petitioner asserts that the non-final Office action mailed on May 5, 2006, was not received. Counsel states, in pertinent part, that a review of PAIR reveals that the non-final Office action was returned as undeliverable because the address window on the envelope was blank.

A review of the record reveals that the Office action mailed on May 5, 2006, was returned as undeliverable on May 15, 2006. Further, an inspection of the Office' Image File Wrapper system reveals that a copy of the envelope showing that the Office action was returned is located therein, and the address window in the USPTO envelope appears blank. Accordingly, it is concluded that the Office action was returned as undeliverable because the address was not visible through the address window on the envelope mailed by the USPTO.

As such, the showing of record is that there was an irregularity in the mailing, and the Office action was not received as a result of an Office error. For this reason, the practitioner did not receive the non-final Office action of May 15, 2006.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.[1]

The petition is **GRANTED.**

No petition fee is due and none has been charged.

The application file is being referred to Technology Center Art Unit 1765 technical support staff for remailing of the non-final Office action mailed on May 5, 2006. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Any other questions regarding the status of the application or the examination process should be directed to the Technology Center.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See MPEP 707.13. If the Office action was not mailed to the correct correspondence address, it should be stamped "remailed" with the remailing date and mailed to the correct correspondence address. The period running against the application begins with the date of remailing. Id.

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EMRICH & DITHMAR
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300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of :
Donn Reynolds Armstrong, et al. :
Application No. 10/692,096 : ON PETITION
Filed: October 22, 2003 :
Attorney Docket No. ITP 24.1A :

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b).**" This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The replacement drawings, as required by the Notice To File Missing Parts of Nonprovisional Application mailed January 28, 2004 under 37 CFR 1.84 and 37 CFR 1.121, were missing. This application cannot be revived until the required item is submitted. For applicant's convenience, a copy of the Notice To File Missing Parts of Nonprovisional Application is enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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By hand: Customer Window located at:

U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW May-05

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EMRICH & DITHMAR, LLC
125 SOUTH WACKER DRIVE, SUITE 2080
CHICAGO IL 60606-4401

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OFFICE OF PETITIONS

In re Application of :
Armstrong et al. :
Application No. 10/692,096 : DECISION ON PETITION
Filed: 22 October, 2003 :
Atty Docket No. ITP 24.1A :

This is a decision on the renewed petition filed on 18 February, 2005, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 29 March, 2004, for failure to timely file replacement drawings as required by the Notice to File Missing Parts of Nonprovisional Application mailed on 28

[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)).

January, 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. The present petition precedes the mailing of Notice of Abandonment. The petition filed on 14 October, 2004, was dismissed on 18 January, 2005.

Receipt of four (4) sheets of drawings is acknowledged.

This application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

Mail Date: 04/21/2010

Applicant	: Jodie L. Reynolds	: DECISION ON REQUEST FOR
Patent Number	: 7599434	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/692,106	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1216** 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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STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

Mail Date: 05/18/2010

Applicant : Jodie L. Reynolds
Patent Number : 7599434
Issue Date : 10/06/2009
Application No: 10/692,106
Filed : 10/23/2003

: 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 **1269** 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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HARNESS, DICKEY, & PIERCE, P.L.C
7700 BONHOMME, STE 400
ST. LOUIS MO 63105

COPY MAILED

NOV 19 2004

OFFICE OF PETITIONS

In re Application of	:	
Kathleen B. McDermott	:	DECISION GRANTING
Application No. 10/692,157	:	PETITION
Filed: October 22, 2003	:	
Attorney Docket No. 7383-0000022/US	:	

This is a decision on the petition under 37 CFR 1.10(c), filed June 23, 2004, requesting that the above-identified application be accorded a filing date of October 22, 2003, rather than the presently accorded filing date of October 21, 2003.

Petitioner alleges that the application was deposited in Express Mail service on October 22, 2003. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV311407972US. The "date-in" indicated on the Express Mail label is October 22, 2003. Additionally, the Express Mail label contains a United States Postal Service (USPS) stamp of October 22, 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.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to October 22, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Ulrich DEISS et al.	:	DECISION ON PETITIONS
Application No. 10/692,160	:	UNDER 37 CFR 1.183 AND
Filed: October 23, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001P13005WOUS	:	

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP02/04264, filed April 17, 2002, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

The petition under 37 CFR 1.78(a)(3) is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) 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 the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 3637 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/692,160	10/23/2003	3637	900	2001P13005WOUS	6	10	2

CONFIRMATION NO. 8357

46726
JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN, NC 28562

CORRECTED FILING RECEIPT

OC000000019350032

Date Mailed: 06/20/2006

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)

Ulrich Deiss, Sontheim, GERMANY;
Bernd Schessl, Dillingen, GERMANY;
Rainer Schutz, Neresheim, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **000046726**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP02/04264 04/17/2002

Foreign Applications

GERMANY 10120577.5 04/26/2001
If Required, Foreign Filing License Granted: 01/23/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/692,160

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Device for adjusting the height position of a dishware basket which can be pulled out from the rinsing container of a dishwasher

Preliminary Class

312

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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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Mail Date: 04/20/2010

Applicant	: Ulrich Deiss	: DECISION ON REQUEST FOR
Patent Number	: 7651180	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/692,160	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **482** 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
10/692,170	10/23/2003	2873	770	85999SHS	8	18	2

CONFIRMATION NO. 8345

Thomas H. Close, Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

CORRECTED FILING RECEIPT

OC000000012318492

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)

Brian R. Miller, Fair Haven, NY;
Robert D. Fiete, Fairport, NY;
Theodore A. Tantalo, Rochester, NY;
Kenneth L. Mason, Pittsford, NY;
Frederick J. Warner, Rochester, NY;
Frank J. Tantalo, Rochester, NY;
Taryn A. Czajka, Rochester, NY;

Assignment For Published Patent Application

Eastman Kodak Company;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/02/2004

Projected Publication Date: 04/28/2005

Non-Publication Request: No

Early Publication Request: No

Title

Compact multiple aperture imaging array

Preliminary Class

359

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Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.
100 North Broadway
Chase Tower, Suite 2900
Oklahoma City OK 73102

In re Application of :
Edgar A. O'Rear III, et al. :
Application No. 10/692,171 :
Filed: October 23, 2003 : DECISION ON PETITION
Attorney Docket No. : UNDER 37 C.F.R. § 1.137(A)
820233.02310 :
Title: METHOD FOR MAKING AN :
ARTICLE WATER RESISTANT AND :
ARTICLES MADE THEREFROM :

This is a decision on the petition filed August 20, 2008, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

This petition is **DISMISSED.**

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 January 10, 2008, which set a shortened statutory period for reply of three months. A Request for Continued Examination (RCE) was received on May 8, 2008,

along with an amendment, however no extension of time under the provisions of 37 C.F.R § 1.136(a) was requested. Accordingly, the above-identified application became abandoned on April 11, 2008. On May 13, 2008, the Office mailed a "Notice Requiring Extension of Time Fee - No New Time Period is Provided" (notice). A notice of abandonment was mailed on July 31, 2008.

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. § 1.134 sets forth, *in toto*:

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

THE APPLICABLE STANDARD

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard:

> In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference.[1]

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1 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources

> [T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts clearly demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked any basis in reason or common sense.[2]
>
> The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'[3]
>
> The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency.[4]

Nonawareness of a PTO rule will not constitute unavoidable delay.[5]

The burden of showing the cause of the delay is on the person seeking to revive the application.[6]

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

2 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

3 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

4 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

5 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel. See also Donnelley v. Dickinson, 123 Fsupp2d 456, 459.

6 Id.

7 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

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 (D.C. Cir. 1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

As such, the general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[8]

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[9]

A delay caused by the mistakes or negligence of a voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.[10]

ANALYSIS

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the

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8 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
9 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
10 Haines, 673 F.Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32; Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 103, 131 (Comm'r Pat. 1891).

reply until the filing of a grantable petition was unavoidable;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Applicant's attorney has included the petition fee and a statement of facts.

Applicant's attorney has also submitted a three-month extension of time. 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.[11] Accordingly, since the $ 60 extension of time submitted with this petition on August 20, 2008 was filed subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to the credit card of Applicant's attorney.

The first and second requirements of Rule 1.137(a) have been met. The fourth requirement is not applicable, as no terminal disclaimer is required.

Regarding the third requirement of Rule 1.137(a), the record does not support a finding that the entire period of delay was unavoidable.

Applicant's attorney has indicated that he failed to submit the fee that is associated with the filing of a request for a one-month extension of time when submitting the RCE.[12] Applicant's attorney has further indicated that the notice of May 13, 2008 was not received:

> "Applicant and Applicant's attorney were never made aware that the one month extension of time had not been paid and thus, the RCE had not been considered. This allowed the application to unavoidably go abandoned due to the fact that Applicant's attorney was awaiting communication from the USPTO."
>
> Petition, page 4.

Applicant's attorney's argument has been considered, and it is not deemed to be persuasive.

First, Applicant's attorney should have been aware that the one-month extension of time fee had not been paid, due to the fact

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11 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).
12 See petition, page 3.

that he submitted neither a request for an extension of time[13] nor the associated fee. It is not understood why, after not submitting either this request or the fee that is associated with the same, he was unaware that he did not submit the one-month extension of time fee.

In regards to the assertion of Applicant's attorney that the Applicant was unaware of this omission, it does not appear that Applicant's attorney has firsthand knowledge of what the Applicant might or might not have been aware of. Nevertheless, the Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of applicants, and applicants are bound by the consequences of those actions or inactions.[14] The actions of an attorney are imputed to the client, for when a petitioner voluntarily chooses an attorney to represent him/her, a petitioner cannot later distance himself/herself from this attorney, so as to avoid the repercussions of the actions or inactions of this selected representative, due to the fact that clients are bound by the acts of their lawyers/agents, and **constructively possess "notice of all facts, notice of which can be charged upon the attorney."**[15]

Secondly, the assertion of Applicant's Attorney that this application went abandoned due to the alleged[16] failure of Applicant's Attorney to receive the notice of May 13, 2008 is inaccurate: **this application went abandoned due to the failure of Applicant's Attorney to timely respond to the final Office action. Had Applicant's Attorney included a one-month extension of time along with the submission of the RCE, the RCE would have been considered timely filed, and this application would not have become abandoned - the alleged failure of Applicant's Attorney to receive the notice of May 13, 2008 does not change this fact.**

The entire period of delay might have been unintentional, but the record does not support a finding that it was unavoidable.

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13 The electronic record has been reviewed, and a request for a one-month extension of time (other than the request that was submitted concurrently with this petition) has not been located.
14 Link v. Wabash, 370 U.S. 626, 633-634 (1962).
15 Link at 633-634.
16 Applicant's Attorney has not established that the notice of May 13, 2008 was not received. A petitioner may establish that a particular Office communication was not received via the process set forth in section 711.03(c)(I)(A) of the MPEP.

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.137(a)".

Applicant's Attorney will note that any showing to establish that the entire period of delay was unavoidable must be directed towards the failure that resulted in the abandonment of this application (the failure to submit a timely reply to the final Office action), as it is the entire period of delay that must be shown to have been unavoidable.

This is not a final agency action within the meaning of 5 U.S.C § 704.

Alternatively, Applicant's Attorney may also file a petition pursuant to 37 C.F.R. § 1.137(b), which carries with it a much lower standard. Unless Applicant's Attorney believes that he can successfully establish that the entire period of delay was unavoidable, he may wish to file pursuant to the unintentional standard.

Applicant's Attorney will note that a third option is to concurrently file both a renewed petition pursuant to Rule 1.137(a) and a petition pursuant to Rule 1.137(b). If the renewed petition pursuant to Rule 1.137(a) is granted, the fee that is associated with the petition pursuant to Rule 1.137(b) will be refunded to him.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[17] hand-delivery,[18] or facsimile.[19] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[20]

If responding by mail, Applicant's Attorney is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included -

---

17 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
18 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
19 (571) 273-8300- please note this is a central facsimile number.
20 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[21]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

21 Applicant's attorney 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, Applicant's attorney is reminded that no telephone discussion may be controlling or considered authority for any further action(s) by Applicant's attorney.

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Paper No.

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Nelson, P.C.
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Chase Tower, Suite 2900
Oklahoma City OK 73102

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NOV 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Edgar A. O'Rear III, et al. :
Application No. 10/692,171 :
Filed: October 23, 2003 : DECISION ON PETITION
Attorney Docket No. : UNDER 37 C.F.R. § 1.137(B)
820233.02310 :
Title: METHOD FOR MAKING AN :
ARTICLE WATER RESISTANT AND :
ARTICLES MADE THEREFROM :

This is a decision on the petition filed October 14, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

This petition is **GRANTED**.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed January 10, 2008, which set a shortened statutory period for reply of three months. A Request for Continued Examination (RCE) was received on May 8, 2008 along with the associated fee and an amendment, however no extension of time under the provisions of 37 C.F.R § 1.136(a)

was requested. Accordingly, the above-identified application became abandoned on April 11, 2008. On May 13, 2008, the Office mailed a "Notice Requiring Extension of Time Fee - No New Time Period is Provided" (notice). A notice of abandonment was mailed on July 31, 2008.

A petition pursuant to 37 C.F.R. § 1.137(a) was filed on August 20, 2008, and was dismissed via the mailing of a decision on October 3, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With the petition pursuant to 37 C.F.R. § 1.137(b), Applicant's attorney has included a request for continued examination (RCE), an amendment, the petition fee, and a statement that is being construed as the proper statement of unintentional delay.

Applicant's attorney has again submitted a three-month extension of time. As was indicated on page 5 of the decision on the petition pursuant to 37 C.F.R. § 1.137(a), 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.[1] Accordingly, since the $ 550 extension of time submitted with this petition on October 14, 2008 was filed subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to the credit card of Applicant's attorney in due course.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.

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 submission under 37 C.F.R. § 1.114 - the amendment received on October 14, 2008 - can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning the status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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Paper No.

John W. Eldredge
Myers, Dawes & Andras
19900 MacArthur Blvd., Suite 1150
Irvine, CA 92612

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AUG 0 6 2004

OFFICE OF PETITIONS

In re Application of :
James P. Siepmann :
Application No. 10/692,175 : DECISION GRANTING
Filed: October 22, 2003 : PETITION
Attorney Docket No. LTI.PAU.03 :

This is a decision on the petition filed April 19, 2004, requesting that the above-identified application be accorded a filing date of October 22, 2003.

The petition is **GRANTED**.

The application was deposited on October 22, 2003. However, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" on March 8, 2004 stating that the drawings appear to have been omitted.

In response, the present petition was filed. The petition argues that 6 sheets of drawings were in fact received in the USPTO on filing on October 22, 2003. In support of this assertion, petitioner has supplied a stamped postcard that acknowledges receipt by the USPTO on October 22, 2003, of, *inter alia,* "Drawings (6 sheets)."

MPEP 503 states that, "A postcard receipt which itemizes and properly identifies the papers which are being filed serves a prima facie evidence of receipt in the USPTO." Accordingly, the evidence supports the fact that 6 sheets of drawings were in fact present on filing.

Nevertheless, the Notice of March 25, 2003 was improper for the following reason. This application contained, on filing, at least one method or process claim, which normally does not require a drawing. It is USTPO policy, per MPEP 601.01(f), to treat such an application under the procedure set forth in MPEP 601.01(g). Under that procedure, rather than mailing a Notice of Incomplete Nonprovisional Application indicating the lack of drawings precluded the grant of

a filing date, the USPTO should have accorded the application papers a filing date of October 22, 2003, and sent a Notice of Omitted Items. Accordingly, the Notice mailed March 8, 2004 was mailed in error and is vacated.

Since it appears that the Office committed the error, the petition fee of $130 is unnecessary. Petitioner may request a refund of the $130 petition fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany such a request.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of October 22, 2003, with an indication that 6 sheets of drawings were present on filing and using the drawings supplied on April 19, 2004.**

Telephone inquiries concerning this matter may be directed to Marianne Jenkins at (703) 306-3475.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MYERS DAWES ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD., SUITE 1150
IRVINE, CA 92612

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MAR 27 2006

OFFICE OF PETITIONS

In re Application of :
James P. Siepmann :
Application No. 10/692,175 : DECISION ON PETITION
Filed: October 22, 2003 : TO WITHDRAW
Attorney Docket No. LTI..PAU.03 : 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 18, 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 Vic Y. Lin on behalf of all attorneys of record. 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 Irvin Dingle at (571) 272-3210.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Clark Caflisch
LightTime, Inc.
375 City Center, Suite N
Oshkosh, WI 54901

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19900 MACARTHUR BLVD., SUITE 1150
IRVINE, CA 92612

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of :
James P. Siepmann :
Application No. 10/692,176 : DECISION ON PETITION
Filed: October 22, 2003 : TO WITHDRAW
Attorney Docket No. LTI..PAU.03 : 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 18, 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 Vic Y. Lin on behalf of all attorneys of record. 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 Irvin Dingle at (571) 272-3210.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Clark Caflisch
LightTime, Inc.
375 City Center, Suite N
Oshkosh, WI 54901

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/27/04

Paper No.: _____

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10692204 Patent No.: 6971319

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: THE IDS was never considered by the examiner during the pendency of the application

SPE

3617
Art Unit

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FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

Mail Date: 07/26/2010

Applicant	: Zhibi Wang	: DECISION ON REQUEST FOR
Patent Number	: 7646741	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/692,207	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1682** 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
10/692,211	10/22/2003	2121	1044	O2M03.16	1	28	3

CONFIRMATION NO. 8196

32047
GROSSMAN, TUCKER, PERREALT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER, NH 03101

CORRECTED FILING RECEIPT

OC000000012979710

Date Mailed: 06/17/2004

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)

Chun-His Lin, Zuang-Yuan, TAIWAN;
James Lam, Fremont, CA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/475,887 06/04/2003

Foreign Applications

If Required, Foreign Filing License Granted: 01/27/2004

Projected Publication Date: 12/09/2004

Non-Publication Request: No

Early Publication Request: No

Title

Auxiliary alarm clock system for a personal computer

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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1375 EAST 9TH STREET
CLEVELAND OH 44114

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of :
Ulintz :
Application No. 10/692,217 : ON PETITION
Filed: October 23, 2003 :
Attorney Docket No. 109770.0018 :

This is a decision on the correspondence entitled, "RESPONSE TO NOTICE OF ABANDONMENT," filed May 21, 2007. The correspondence will be treated as a petition under 37 CFR 1.181, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any further reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application was held abandoned as a result of petitioner's alleged failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As the Office had no record of an appeal brief (and appeal brief fee) being filed within two (2) months of the Notice of Appeal filed September 21, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application was considered abandoned on November 22, 2006. *See* MPEP 1215.04.

Petitioner asserts a reply was timely transmitted via facsimile to the Office on November 21, 2006. The Office has no record of receiving the Appeal Brief. However, the copy of the Brief of Appellant under 37 CFR 1.192 submitted with the instant petition contains a certificate of transmission citing a November 21, 2006 date of transmission.

Under 37 CFR 1.8(b), correspondence is considered timely filed if petitioner: supplies (1) a copy of the previously transmitted correspondence with a signed certificate of transmission affixed thereto (2) a statement which attests on a personal knowledge basis to the previous timely transmission. A copy of the sending unit's report confirming transmission may be used to

support this statement. Furthermore, under 37 CFR 1.8(c), the Office may require additional evidence to determine if the correspondence was timely filed.

Petitioner has supplied persuasive evidence of facsimile transmission on November 21, 2006. The transmittal form bears a proper certificate of mailing, dated November 21, 2006, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the person signing the certificate, Jennifer C. Safranek, had reasonable basis to expect that the correspondence would be transmitted on November 21, 2006. It is noted that Ms. Safranek signed the certificate of transmission for the present petition. Petitioner has submitted their sending unit's confirmation page that shows 15 pages were successfully transmitted to 571 273-0053.

Unfortunately, petitioner has not provided evidence that the $250.00 Appeal Brief fee was paid on November 21, 2006. It appears that the Appeal Brief was submitted, but the required fee was not paid.

Therefore, the petition is **dismissed**. Petitioner is encouraged to file evidence that the Appeal Brief fee was submitted in any reconsideration petition. If petitioner is not able to provide persuasive evidence that the fee was paid, petitioner should consider filing a petition to revive under the unintentional delay standard of 37 CFR 1.137(b).

For future reference, facsimile transmissions (with few exceptions) **must** be sent to the centralized facsimile number – 571-273-8300-, or they will be deemed informal/proposed responses. See MPEP 502.01 In the instant case, the Notice of Appeal and Appeal Brief should have been sent to the centralized facsimile number. The number used, 571 273-0053, is the facsimile number for the Board of Appeals.

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 pertaining to this matter may 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

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AUG 13 2007

OFFICE OF PETITIONS

In re Application of :
Ulintz :
Application No. 10/692,217 : ON PETITION
Filed: October 23, 2003 :
Attorney Docket No. 109770.0018 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application was held abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As the Office had no record of an appeal brief (and appeal brief fee) being filed within two (2) months of the Notice of Appeal filed September 21, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application was considered abandoned on November 22, 2006. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief and required $250.00 fee, (2) the petition fee of $750.00, and (3) a proper statement of unintentional delay.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

This application is being referred to Technology Center AU 3616 for appropriate action by the Examiner in the normal course of business on the reply received.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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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
10/692,220	10/23/2003	2673	770	87032RLO	4	11	2

CONFIRMATION NO. 8212

Thomas H. Close, Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

CORRECTED FILING RECEIPT

OC000000012058190

Date Mailed: 03/09/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Andrew C. Gallagher, Brockport, NY;
Edward B. Gindele, Rochester, NY;

Assignment For Published Patent Application

Eastman Kodak Company;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/02/2004

Projected Publication Date: 04/28/2005

Non-Publication Request: No

Early Publication Request: No

Title

Applying a tone scale function to a digital image

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.

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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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Technology Center 2100

SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: TAKAGI et al.
Application No. 10/692,222
Filed: October 23, 2003
For: PROCESSING STRUCTURED/HIERARCHICAL CONTENT

REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 29, 2008, to make the above-identified application special.

The petition is **DENIED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition failed item (4) above, since a first action on the merits was mailed to applicants on September 26, 2008.

Therefore, the Petition is **DENIED**.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

/Mano Padmanabhan/

_____

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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JAN 0 9 2007

OFFICE OF PETITIONS

In re Patent No. 7,144,028	:	
Issued: December 5, 2006	:	
Application No. 10/692,226	:	NOTICE
Filed: October 13, 2003	:	
Patentee: Mike Sinyard, et al.	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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AUG 24 2007

OFFICE OF PETITIONS

In re Application of :
Dustin A. Cochran :
Application No. 10/692,240 : DECISION ON PETITION
Filed: October 22, 2003 : TO WITHDRAW
Attorney Docket No. 146712017800 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed March 30, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Peter Davis 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.

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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: RAJ. S. DAVE', PHD
DARBY & DARBY, PC
1500 K. STREET, NW
SUITE 250
WASHINGTON, DC 20005-1714

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

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JAN 29 2009

OFFICE OF PETITIONS

In re Application of
Thomas E. Cross Jr.
Application No.10/692,244
Filed: October 23, 2003
Attorney Docket No. P0010991.00

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 2008, 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 September 8, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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JUL 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Marotta, et al. :
Application No. 10/692,272 : ON PETITION
Filed: October 22, 2003 :
Attorney Docket No. TI-18913R :

This is a decision on the petition under 37 CFR 1.183, filed October 22, 2003. The application was recently forwarded to this office for consideration of the petition.

The petition is **dismissed** as unnecessary.

A review of the application file indicates a request for joinder and a signed declaration by inventor Misako A. Matsuoka, were submitted on June 22, 2003. As such, the instant petition is unnecessary.

The petition fee has not been charged.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

In re Application of :
Marotta, et al. : DECISION NOTING JOINDER OF
Application No. 10/692,272 : INVENTOR
Filed: October 22, 2003 :
Attorney Docket No. TI-18913R :

This is in response to the papers styled, "Addendum To Reissue Patent Application," filed June 22, 2004, which has been treated as a petition for joinder in the above-identified application.

The petition is **granted**.

Petitioner has submitted a Declaration executed by the previously non-signing inventor Misako A. Matsuoka in compliance with 37 CFR 1.63. Therefore, in view of the joinder of the inventors, this application does not require Rule 1.47(a) status, and no such status should appear on the file wrapper.

The file is being forwarded to Technology Center 2800 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

PA-IDC

QUERY CONTROL FORM				ATIS USE ONLY	
Application No.	10/692,275	Prepared by	MM	Tracking Number	0200208
Examiner-GAU	Bell - 1661	Date	9/29/04	Week Date	8/30/04
		No. of queries	1	IFW(T9)	

JACKET			
a. Serial No.	f. Foreign Priority	k. Print Claim(s)	p. PTO-1449
b. Applicant(s)	g. Disclaimer	l. Print Fig.	q. PTOL-85b
c. Continuing Data	h. Microfiche Appendix	m. Searched Column	r. Abstract
d. PCT	i. Title	n. PTO-270/328	s. Sheets/Figs
e. Domestic Priority	j. Claims Allowed	o. PTO-892	t. Other

SPECIFICATION

a. Page Missing
b. Text Continuity
c. Holes through Data
d. Other Missing Text
e. Illegible Text
f. Duplicate Text
g. Brief Description
h. Sequence Listing
i. Appendix
j. Amendments
k. Other

CLAIMS

a. Claim(s) Missing
b. Improper Dependency
c. Duplicate Numbers
d. Incorrect Numbering
e. Index Disagrees
f. Punctuation
g. Amendments
h. Bracketing
i. Missing Text
j. Duplicate Text
k. Other

MESSAGE

PTO-1449: Please either initial or line through citation(s) (copy provided for reference).

Thank you

initials

RESPONSE Done

initials LB

E-5 (Rev. 10/01/02)

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Ryan Kromholz & Manion, S. C.
Post Office Box 26618
Milwaukee, WI 53226

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APR 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Lee Bolduc	:	
Application No. 10/692,282	:	DECISION ON PETITIONS
Filed: October 23, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 9494.18398	:	AND UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 15, 2004, 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 **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 submitted with the instant petition is physically part of the petition and, as such, does not comply with 37 CFR §§ 1.121, 1.53, or 1.4(c). Therefore, the amendment as drafted is unacceptable and is not considered a proper reference under 37 CFR 1.78(a)(2)(i). Note that 37 CFR 1.121 states 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 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 USPTO.

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) and (a)(6), must be submitted. No further petition fee is due.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Marianne Jenkins at (571) 272-3223.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Ryan Kromholz & Manion, S.C.
Post Office Box 26618
Milwaukee, WI 53226

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Lee Bolduc :
Application No. 10/692,282 : DECISION ON PETITIONS
Filed: October 23, 2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 9494.18398 :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 6, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

This nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Additionally, intermediate Application No. 10/271,334 was filed on October 13, 2002, within twelve months of the filing date of prior-filed provisional Application No. 60/333,937, which was filed on November 28, 2001, for which priority is claimed.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to 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 Technology Center Art Unit 3738 for appropriate action on the amendment submitted May 6, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Frances Hicks

Frances M. 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

GEORGE A. HERBSTER
40 BEACH STREET
SUITE 303
MANCHESTER, MA 01944

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FEB 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Douglas E. Lecrone, et. al.	:	
Application No. 10/692,285	:	DECISION ON PETITION
Filed: October 23, 2003	:	
Attorney Docket No. E30-033CON	:	

This is a decision on the petition, filed on April 16, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment mailed August 10, 2006, which set a period of one (1) month or thirty (30) days, whichever was longer, from the mail date of the notice to supply the correction. As no reply was received, the application was held abandoned.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and

3. a copy of the docket record where the non-received Notice would have been entered had it been received must be attached to and referenced in the practitioner'statement.

The petition fails to satisfy item (3) above.

Petitioner asserts that the Office action dated August 10, 2006 was not received and that the docket records for the above application is in an archive file that is not in a clear text format. Unfortunately, the Office requires decipherable docket records that would prove that the Office action in question was not received. Therefore,

absent the required evidence to establish non-receipt of the Notice of August 10, 2006, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time[1].

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,540 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Any request for reconsideration of this decision should be filed within **two (2) months** from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

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GEORGE A. HERBSTER
40 BEACH STREET
SUITE 303
MANCHESTER, MA 01944

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JUL 07 2008

OFFICE OF PETITIONS

In re Application of :
Douglas E. Lecrone, et. al. :
Application No. 10/692,285 : DECISION ON PETITION
Filed: October 23, 2003 :
Attorney Docket No. E30-033CON :

This is a decision on the petition under 37 CFR 1.137(b), filed February 22, 2008, 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 $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2166 for review of the amendment filed on April 16, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE, CA 95164

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APR 3 0 2004

OFFICE OF PETITIONS

In re Application of
Kita, Yang, and Selegue
Application No. 10/692,286
Filed: October 23, 2003
Attorney Docket No. 10006.001610
For: EFFICIENT USE OF KEYFRAMES IN VIDEO COMPRESSION

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed March 22, 2004.

The petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on October 23, 2003, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on January 27, 2004, requiring payment of the filing fee, an executed oath or declaration, and a surcharge for the late filing of the oath or declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (1) as set forth above.

As to item (1), petitioner has not established that the non-signing inventor cannot be reached or has constructively refused to sign the oath or declaration. Petitioner has only indicated that a copy of the application papers and declaration was sent to the last known address of the non-signing inventor. There is no indication that the papers were received. If petitioner is arguing that the non-signing inventor is

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unavailable to join the prosecution of the application, section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) explains that:

> [w]here 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.

It cannot be concluded that petitioner made a 'diligent' effort to locate the non-signing inventor given the evidence presented. It is only clear that the application papers were sent to the last known address of the non-signing inventor ; this, without more, does not amount to diligence in locating the non-signing inventor. Section 409.03(d) further explains that the aforementioned statement " . . . must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence, such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the non-signing inventor could not be found or reached should be made part of the statement." In this case, petitioner should, at least, provide some evidence that the non-signing inventor has received the application papers, i.e., a certified mail return receipt, or that other efforts were made to locate the non-signing inventor to no avail.

If petitioner is maintaining that the non-signing inventor has constructively refused to the join the application, petitioner must provide some evidence that the non-signing inventor has received the application papers, but is unwilling to comply as demonstrated by inventor's behavior either expressly or constructively.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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JUL 2 1 2004

OFFICE OF PETITIONS

OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE ,CA 95164

In re Application of :
Kita, Yang, and Selegue :
Application No.: 10/692,286 : DECISION NOTING JOINDER
Filed: October 23, 2003 :
Attorney Docket No: 10006.001610 :
FOR: EFFICIENT USE OF KEYFRAMES IN VIDEO COMPRESSION :

This is in response to the correspondence filed June 28, 2004, noting the joinder of inventor Kita in the above-cited application.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Manual of Patent Examining Procedure ("MPEP"), § 409.03(j) provides that "[i]n the event the previously nonsigning inventor decides to join the application by filing an executed oath or declaration complying with 37 CFR 1.63, the oath or declaration will be placed in the application file."

Accordingly, the declaration for inventor Kita has been entered and made of record.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE LAW OFFICES OF ROBERT B. POLIT
8804 LAKE RIDGE DR.
DARIEN, IL 60561

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JUN 16 2006

OFFICE OF PETITIONS

In re Application of :
FARNSWORTH :
Application No. 10/692,301 : DECISION ON PETITION
Filed: October 23, 2003 : TO WITHDRAW
Attorney Docket No. 12858-6 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 10, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Robert B. Polit has been revoked by the assignee of the patent application on April 28, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: MAGINOT, MOORE & BECK, LLP
CHASE TOWER
111 MONUMENT CIRCLE
SUITE 3250
INDIANAPOLIS IN 46204-5115

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MAR 0 3 2006

OFFICE OF PETITIONS

MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of :
Richard A. Briesemeister et al :
Application No. 10/692,307 : ON PETITION
Filed: October 22, 2003 :
Attorney Docket No. 12821.24US01 :

This is a decision on the petition, filed March 1, 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 27, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3671 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No.

SOFER& HAROUN, LLP
Suite 910
317 Madison Avenue
New York NY 10017

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APR 16 2007

OFFICE OF PETITIONS

In re Application of :
Frank Schmidt : DECISION ON
Application No. 10/692,308 : PETITION
Filed: October 22, 2003 :
Attorney Docket No. 979-037 :

This is a decision on the PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION, filed March 15, 2007.

The petition is **GRANTED**.

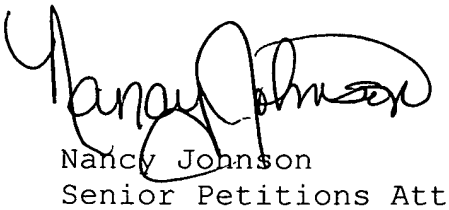
The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, October 16, 2006, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on January 17, 2007. A courtesy Notice of Abandonment was mailed on February 16, 2007.

The petition included the required reply[1] in the form of payment of the Issue Fee and Publication Fee; 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.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

[1] There was no distinct but concurrent requirement for new drawings.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,314	10/23/2003	David A. Kranz	09612.1049-00000	8597

22852 7590 10/29/2008

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER	
PARDO, THUY N	

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
10/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of:
Kranz, et al.
Application No. 10/692,314
Filed: October 23, 2003
For: URL SYSTEM AND METHOD FOR LICENSING CONTENT

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition, filed on 22 August 2008, requesting that the shortened statutory period for reply set forth in the Office communication mailed on 02 June 2008 be restarted.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

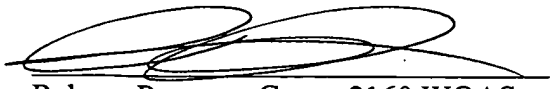
The relevant portion of MPEP § 711.03(c) states:

> 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.

In support of the petition, the petitioner stated that the Office Action mailed 02 June 2008 was never received by the applicants and stated that the applicant's representative only discovered the Office Action during a recent routine review of the PAIR system on 18 August 2008. The petitioner supplied a copy of the docket record (Patent Record Sheet) showing that the Office Action was never received by the applicant's representative. The docket record shows no entry reflecting receipt of the Office Action on or about 02 June 2008. The docket record also does not show any entry reflecting receipt of the subject Office Action on any date between the dates of 02 June 2008 and 18 August 2008.

For the above-stated reasons, the petition is **GRANTED**. Accordingly, the shortened statutory period that was originally set forth in the Office Action mailed on 02 June 2008 is hereby reset to run FROM THE DATE OF 18 August 2008.

Any inquiry concerning this decision should be directed to the undersigned whose telephone is (571) 272-3676.



Rehana Perveen, Group 2160 WQAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 18, 2006

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/692334 Patent No.: 6,852,662

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: _____

_____

_____

_____

_____

S. Wu — SPE

1796 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/692,339	11/07/2003	1772	1424	1-24874	2	30	7

CONFIRMATION NO. 1978

04859
MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

UPDATED FILING RECEIPT

OC000000012354438

Date Mailed: 04/14/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Daniel Thomas Jones, Cowes, UNITED KINGDOM;

Domestic Priority data as claimed by applicant

This application is a CON of PCT/GB02/02055 05/08/2002

Foreign Applications

UNITED KINGDOM 0111278.8 05/09/2002
UNITED KINGDOM 0130965.7 12/17/2001

If Required, Foreign Filing License Granted: 02/03/2004

Projected Publication Date: 07/22/2004

Non-Publication Request: No

Early Publication Request: No

Title

Molding material

Preliminary Class

428

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Alexandria, VA 22313-1450
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VERTEX PHARMACEUTICALS INCORPORATED
130 WAVERLY STREET
CAMBRIDGE, MA 02139

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OFFICE OF PETITIONS

In re Application of	:	
Robert Davies et al	:	
Application No. 10/692,355	:	ON PETITION
Filed: October 23, 2003	:	
Attorney Docket No. VPI/00-129-1 DIV US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 24, 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 September 24, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 25, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1624 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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U.S. Army TACOM-ARDEC
ATTN: AMSTA-AR-GCL
M. Sachs/Building 3
Picatinny Arsenal, NJ 07806-5000

In re Application of
Roger S. Wong et al
Application No. 10/692,357
Filed: October 24, 2003
For: MECHANISM FOR REDUCING THE VULNERABILITY OF HIGH EXPLOSIVE LOADED MUNITIONS TO UNPLANNED THERMAL STIMULI

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on December 2, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated _____.

☒ USPTO return facsimile receipt dated July 7, 2004 which identifies the application by serial number and the type of Response 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 _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

RAR/jwk: 7/7/05

Randolph A. Reese
Special Programs Examiner
Group 3600

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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BLACK & DECKER CORPORATION
MAIL STOP TW 199
701 E. JOPPA ROAD
TOWSON, MD 21286

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APR 19 2006
OFFICE OF PETITIONS

In re Application of :
Manfred Droste :
Application No. 10/692,359 : DECISION GRANTING PETITION
Filed: October 23, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. P-US-PR 1075 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 28, 2005, as required by the Notice of Allowance and Fee(s) Due mailed June 28, 2005. A Notice of Abandonment was mailed on November 7, 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 $1,400 issue fee and the $300 publication fee; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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. None

BRADLEY M GANZ, PC
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OFFICE OF PETITIONS

In re Application of
Khalid Raja, Frank D'Amelio, Dennis Caudle, Roger Raetzman, Kevin Wood, and Marvin Parrett
Application No. 10/692,363
Filed: October 22, 2003
Attorney Docket No.: ACMI-2.006.US
Title: FLUID DELIVERY SYSTEM FOR USE WITH A SURGICAL PUMPING UNIT

DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed June 8, 2004.

The above-identified application was filed on October 22, 2003, identifying Khalid Raja, Frank D'Amelio, Dennis Caudle, Roger Raetzman, Kevin Wood, and Marvin Parrett as joint inventors. The application was filed with neither an oath nor a declaration. On January 22, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (first notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

On May 21, 2004, an improperly executed declaration was submitted, and on June 4, 2004, a "Notice of Incomplete Reply – Nonprovisional" (second notice) was mailed, indicating that the submission was not acceptable. The second notice did not extend the period for response set by the previous mailing.

In reply to the second notice, applicant filed the instant petition, the petition fee, and the surcharge associated with the late filing of an oath or declaration. To make timely this reply, a two-month extension of time was requested.

Petitioner has also submitted a declaration executed by each of the joint inventors save Mr. Wood, a statement of facts, the last known address of the non-signing inventor, and copies of several letters.

Petitioner has met requirements (1) – (3) above.

Regarding the fourth requirement above, both the statement of facts and the copies of the letters which were sent to the non-signing inventor make it clear that only the declaration was sent to him. As such, Petitioner has shown that a complete copy of the application was not sent to the non-signing inventor. Petitioner's showing is insufficient to evince, as required, that Rule 47 applicant presented the inventor with a copy of the entire application.

Furthermore, it follows that one cannot refuse to sign something which one has not been presented with. A refusal by an inventor to reply to the e-mails and telephone messages described in the declaration of facts 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[2].

Regarding the fifth requirement above, the declaration is not compliant with 28 U.S.C. 1746, in that signing joint inventor D'Amelio has failed to affix a date underneath his signature.

On renewed petition, Petitioner may either: mail a complete copy of the application to the non-signing inventor and submit proof of the same, coupled a declaration which has been properly executed by joint inventor D'Amelio, or; a declaration which has been properly executed by each of the inventors.

For these reasons, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The renewed petition should include a cover letter entitled "Renewed Petition under 37 CFR 1.47(a)," and should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner.

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2 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

5 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

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Paper No. None

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HILLSBORO OR 97123

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OFFICE OF PETITIONS

In re Application of
Khalid Raja et al.
Application No. 10/692,363
Filed: October 22, 2003
Attorney Docket No. ACMI-2.006.US
Title: FLUID DELIVERY SYSTEM FOR USE WITH A SURGICAL PUMPING UNIT

DECISION NOTING JOINDER AND DISMISSING SECOND RENEWED PETITION UNDER 37 C.F.R. §1.47(A) AS MOOT

This is in response to the renewed petition under 37 CFR §1.47(b)[1], filed November 12, 2004.

The above-identified application was filed on October 22, 2003, identifying Khalid Raja, Frank D'Amelio, Dennis Caudle, Roger Raetzman, Kevin Wood, and Marvin Parrett as joint inventors. The application was filed with neither an oath nor a declaration. On January 22, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (first notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

On May 21, 2004, an improperly executed declaration was submitted, and on June 4, 2004, a "Notice of Incomplete Reply – Nonprovisional" (second notice) was mailed, indicating that the

1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that diligent efforts have been made to locate the non-signing inventor
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

submission was not acceptable. The second notice did not extend the period for response set by the previous mailing. In reply to the second notice, applicant filed the original petition, the petition fee, and the surcharge associated with the late filing of an oath or declaration. To make timely this reply, a two-month extension of time was requested. Petitioner submitted a declaration executed by each of the joint inventors save Mr. Wood, a statement of facts, the last known address of the non-signing inventor, and copies of several letters. This petition was dismissed via the mailing of a decision on August 9, 2004, for failure to establish that a complete copy of the application was sent to the non-signing inventor, and for failure to submit an acceptable declaration.

With this renewed petition, an acceptable declaration has been submitted which has been executed by the formerly non-signing sole inventor.

This declaration has been reviewed and found in compliance with 37 C.F.R. §1.63.

In view of the joinder of the joint inventor, further consideration under 37 CFR §1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR §1.47(a).

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.

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding *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

Cc: James Wolfe
PO Box 10105
Portland, Oregon 97296

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Paper No. None

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OFFICE OF PETITIONS

In re Application of :
Khalid Raja et al. :
Application No. 10/692,363 : DECISION ON PETITION
Filed: October 22, 2003 : UNDER 37 C.F.R. §1.181
Attorney Docket No.: ACMI-2.006.US :
Title: FLUID DELIVERY SYSTEM FOR USE :
WITH A SURGICAL PUMPING UNIT :

This is a decision on the petition filed on October 28, 2005 under 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application was filed on October 22, 2003, identifying Khalid Raja, Frank D'Amelio, Dennis Caudle, Roger Raetzman, Kevin Wood, and Marvin Parrett as joint inventors. The application was filed with neither an oath nor a declaration. On January 22, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (first notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

On May 21, 2004, an improperly executed declaration was submitted, and on June 4, 2004, a "Notice of Incomplete Reply – Nonprovisional" (second notice) was mailed, indicating that the submission was not acceptable. The second notice did not extend the period for response set by the previous mailing.

In reply to the second notice, applicant filed a petition on 37 C.F.R. §1.47(a) on May 21, 2004, along with a two-month extension of time was requested. The petition was dismissed via the mailing of a decision on August 9, 2004. The decision set a two-month period for response.

A renewed petition was filed on October 7, 2004, with a supplement filed on November 12, 2004. The renewed petition was dismissed as moot via the mailing of a decision on December 29, 2004.

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 present petition should be granted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

Applicant: Raja et al.
Appl. No.: 10/692,363
Filing Date: October 22, 2003
Title: FLUID DELIVERY SYSTEM FOR USE WITH A SURGICAL PUMPING UNIT
Attorney Docket No.: ACMI-2.006.US
Pub. No.: US 2006/0122576 A1
Pub. Date: June 8, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 8, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error, as the benefit/priority claim to the prior applications, which are recorded in PAIR, as amendments are not evident in the publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The patent application publication does not include a mistake with respect to the preliminary amendment to the benefit/priority claim. The patent application publication does not include a mistake regarding the failure to include the preliminary amendment in the publication by the Office because patent application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a), [2] which says the following, in part:

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

[2] Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

> (a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. **The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b),** amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. (emphasis added)

§ 1.215(c) says the following:

(c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until 2004, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004) and MPEP 1121. Applicant did not file a substitute specification, which incorporated the preliminary amendment. See Pre-Grant Publication Helpful Hint: File Continuation or Divisional Application with a New Specification and Copy of Oath or Declaration from Prior Application, 1251 Off. Gaz. Pat. Office Notices 54 (Oct. 9, 2001). The Office correctly published the application in accordance with 37 CFR 1.215(a).

The mistake is not a material error under 37 CFR 1.221(b) because the benefit claim is improper. **The benefit claim provided by Applicant in the preliminary amendment is improper, because the application is not a national stage entry of a PCT application. The application is being treated as an application filed under 35 U.S.C. 111(a),** because did not clearly indicate that it was a submission to enter the national stage under 35 U.S.C. 371, (e.g. the transmittal letter indicated that the application was a nonprovisional application under 37 CFR 1.53(b)). See MPEP 1893.03(a). Applicant may consider making this application a continuation of the PCT application.

To make a benefit/priority claim, 37 CFR 1.78 in summary requires that the benefit claim to an earlier filed application be contained in the first sentence of the application or be submitted in an amendment or application data sheet within the required time frame within the later of four months from the actual filing date or the date on which the national stage commenced, or sixteen months from the filing date of the prior-filed application. According to 37 CFR 1.55, the priority

claim must identify the foreign application and filing date, within the required time frame within the later of four months from the actual filing date or the date on which the national stage commenced, or sixteen months from the filing date of the prior-filed application. [3] Since a proper benefit claim to an earlier filed application was not made within the required time period, it was not properly published on the patent application publication.

In order to make a late benefit claim to the earlier filed applications, applicant must submit a petition to accept an unintentionally delayed claim under 35 U.S.C. 119 and 120 for the benefit of the earlier filed applications. The petition must include 1) the surcharge ($1370) set forth in 37 CFR 1.14(t) and 2) a statement that the entire delay between the date the claim was due under paragraph (a)(5) of this section and the date the claim was filed was unintentional. The petition must also include a proper reference (amendment) to the prior applications in order for the petition to be granted.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on August 8, 2006, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

Any questions or requests for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[3] See Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. §§ 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office Notices 89 (March 18, 2003).

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OFFICE OF PETITIONS

In re Application of
BODIN, et al.
Application No. 10/692,417
Filed: October 23, 2003
Attorney Docket No. **AUS920030252US1**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 7, 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 January 19, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 19, 2006. Accordingly, the date of abandonment of this application is January 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; 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 Monica A. Graves at (571) 272-7253.

This application is being referred to Publishing Division for processing into a patent.

Sherry D. Brinkley
Petitions Office
Office of Petitions

cc: **JOHN BIGGERS**
P.O. BOX 1469
AUSTIN, TX 78767-1469

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OFFICE OF PETITIONS

In re Application of	:	
Fu-Ling Hung	:	
Application No. 10/692,427	:	DECISION DISMISSING
Filed: 22 October, 2003	:	PETITION
Attorney's Docket No. 870-03090301	:	

This is a decision on the petition filed on 18 March, 2004, which is treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of 22 October, 2003, with Figures 17-24 as a part of the original disclosure.

The petition is **DISMISSED**.

On 22 October, 2003, the application was filed. On 23 January, 2004, however, Initial Patent Examination Division mailed a "Notice to File Corrected Application Papers" stating that the application had been accorded a filing date of 22 October, 2003, but that, *inter alia*, Figures 17-24 described in the specification appeared to have been omitted from the application. A two (2)-month period for reply was set.

In response, on 18 March, 2004, the present petition was filed. Petitioners argue that Figures 17-24 were filed with the other application papers deposited in the USPTO on 22 October, 2003. In support, petitioners supplied on 18 March, 2004, a copy of 23 pages of specification containing Figures 1-24, as well as a copy of a postcard receipt bearing a USPTO Office date stamp of 22 October, 2003, and the above-identified application number and itemizing the filing of "Drawings."

A review of the record reveals that 10 sheets of drawings containing Figures 1-16 are located in the application file. Figures 17-24, however, cannot be located among the application papers deposited on 22 October, 2003.

Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard (e.g. the number of pages of specification (including written description, claims and abstract) number of claims, number of sheets of drawings, number of pages of oath/declaration. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[1]

Petitioner's argument has been considered, but is not persuasive. The showing of record is that 10 sheets of drawings containing Figures 1-16 were received in the Office on 22 October, 2003, and petitioner's postcard receipt reflects that the Office received the items listed above. While the postcard itemizes the filing of drawings, the postcard receipt does not itemize the filing of Figures 17-24, or any particular figures or sheets at all. Absent a showing that Figures 17-24 were located within the 10 sheets of drawings received in the Office on 22 October, 2003, petitioners simply have no evidence that Figures 17-24 were located among the application papers received in the Office on that date.

Petitioner may submit Figures 17-24 in the form of a preliminary amendment. If Figures 17-24 are submitted as a preliminary amendment, it will be reviewed by the examiner for new matter.

As the petition resulted from applicant's filing error and not as a result of an error on the part of the Office, a petition fee of $130.00 is due and has been charged to counsel's credit card.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 22 October, 2003, using the application papers filed on that date. The drawing sheets supplied with the present petition will

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[1] MPEP 503.

not be processed or examined, but will be retained in the application file.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:	
Fu-Ling Hung	:	
Application No. 10/692,427	:	DECISION DISMISSING
Filed: 22 October, 2003	:	PETITION
Attorney's Docket No. 870-03090301	:	

This is a decision on the petition filed on 18 March, 2004, which is treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of 22 October, 2003, with Figures 17-24 as a part of the original disclosure.

The petition is **DISMISSED**.

On 22 October, 2003, the application was filed. On 23 January, 2004, however, Initial Patent Examination Division mailed a "Notice to File Corrected Application Papers" stating that the application had been accorded a filing date of 22 October, 2003, but that, *inter alia*, Figures 17-24 described in the specification appeared to have been omitted from the application. A two (2)-month period for reply was set.

In response, on 18 March, 2004, the present petition was filed. Petitioners argue that Figures 17-24 were filed with the other application papers deposited in the USPTO on 22 October, 2003. In support, petitioners supplied on 18 March, 2004, a copy of 23 pages of specification containing Figures 1-24, as well as a copy of a postcard receipt bearing a USPTO Office date stamp of 22 October, 2003, and the above-identified application number and itemizing the filing of "Drawings."

A review of the record reveals that 10 sheets of drawings containing Figures 1-16 are located in the application file. Figures 17-24, however, cannot be located among the application papers deposited on 22 October, 2003.

Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard (e.g. the number of pages of specification (including written description, claims and abstract) number of claims, number of sheets of drawings, number of pages of oath/declaration. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[1]

Petitioner's argument has been considered, but is not persuasive. The showing of record is that 10 sheets of drawings containing Figures 1-16 were received in the Office on 22 October, 2003, and petitioner's postcard receipt reflects that the Office received the items listed above. While the postcard itemizes the filing of drawings, the postcard receipt does not itemize the filing of Figures 17-24, or any particular figures or sheets at all. Absent a showing that Figures 17-24 were located within the 10 sheets of drawings received in the Office on 22 October, 2003, petitioners simply have no evidence that Figures 17-24 were located among the application papers received in the Office on that date.

Petitioner may submit Figures 17-24 in the form of a preliminary amendment. If Figures 17-24 are submitted as a preliminary amendment, it will be reviewed by the examiner for new matter.

As the petition resulted from applicant's filing error and not as a result of an error on the part of the Office, a petition fee of $130.00 is due and has been charged to counsel's credit card.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 22 October, 2003, using the application papers filed on that date. The drawing sheets supplied with the present petition will

---

[1] MPEP 503.

not be processed or examined, but will be retained in the application file.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Dated: June 15, 2004

Respectfully submitted,

Charles C.H. Wu
Reg. No. 39,081
Attorney for Applicant

WU & CHEUNG, L.L.P.
7700 Irvine Center Drive, Suite 710
Irvine, California 92618-3043
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USPTO CUSTOMER NO.: 25864

25864
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CERTIFICATE UNDER C.F.R. §§§ 1.8(a), 1.10*, and 1.6

I hereby certify that on the date shown below, this correspondence is being:

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[X] 37 CFR 1.8(a)
with sufficient postage as first class mail.

[ ] 37 CFR 1.10
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[ ] 37 CFR 1.6
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Date: June 15, 2004

Mary Kim

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

06/03/04

Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1030

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/692436 received on 05/12/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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JOHN P. WHITE, ESQ.
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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OFFICE OF PETITIONS

In re Application of	:	
Pinsky et al.	:	
Application No. 10/692,439	:	DECISION ON PETITION
Filed: October 22, 2003	:	
Attorney Docket No. 51917-CB-PCT-US/JPW/AJM/A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 8, 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.

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 $525.00 extension of time fee submitted with the petition on May 8, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 1644 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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TODD L. MOORE
YOUNG & BASILE, P.C.
SUITE 624
3001 WEST BIG BEAVER ROAD
TROY, MI 48084-3107

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MAY 2 0 2004

OFFICE OF PETITIONS

In re Application of
Whittaker et al.
Application No. 10/692,442
Filed: October 23, 2003
Attorney Docket No. UNS-103-B

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 15, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 24, 2003[1]. 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.

---

[1] Petitioner disclosed in the instant petition that the foreign filing date was April 25, 2004. However, during a telephone call with the petitioner, the foreign filing date was corrected to October 24, 2003.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 26, 2004 accompanies this decision on petition.

This matter is being forwarded to Technology Center Art Unit 3635 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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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CHICAGO IL 60603-3406

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OFFICE OF PETITIONS

In re Application of :
Gregory Berrevoets et al. :
Application No. 10/692,460 :
Filed: October 22, 2003 : DECISION ON PETITION
Attorney Docket No. 78485 : UNDER 37 C.F.R. §1.181(A)
Title: CROSSLINK FOR SECURING :
SPINAL RODS :

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on April 11, 2006.

BACKGROUND

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed September 7, 2005, which set a shortened statutory period to reply for one (1) 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 October 8, 2005. A Notice of abandonment was mailed on March 21, 2006.

With this petition, Petitioner has included a copy of the response, along with the copy of the postcard receipt which establishes that the submission was received in the Office on October 12, 2005. Petitioner has also indicated that the response contains an incorrect serial number: 10/692,420. It is noted that the response contains the wrong art unit, the correct filing date, inventor's name, Attorney Docket number, title, and Examiner. The postcard receipt contains the erroneous application number, and the correct filing date, inventor name, and title. The electronic file of this alternate application

has been reviewed, and it is clear that the submission was placed into the electronic file of the application which corresponds with the serial number which Petitioner placed thereon. It is further noted that the submission contains a certificate of mailing dated October 7, 2005 and as such, it was timely provided to the Office.

Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

It is clear that the submission was timely received on October 12, 2005, and placed into the electronic file associated with application number 10/692,420. Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is WITHDRAWN.

The amendment will be removed from the electronic file associated with application number 10/962,420, and placed into the electronic file associated with the present application in due course.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response to the restriction requirement which was received on October 12, 2005 can be processed.

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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P.O. BOX 641330
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OFFICE OF PETITIONS

In re Application of :
Sachin Ahuja, Gavin B. Horn, :
Michael Fleisher, John S. Chen, : DECISION REFUSING STATUS
Adityo Prakash and Edward R. Ratner: UNDER 37 CFR 1.47(a)
Application No. 10/692,466 :
Filed: October 23, 2003
For: METHOD AND APPARATUS FOR
MERGING RELATED IMAGE SEGMENTS

This is in response to the "Petition Under 37 CFR 1.47(a)," filed March 22, 2004, regarding non-signing inventor **Sachin Ahuja.**

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 October 23, 2003 without an executed oath or declaration and naming **Sachin Ahuja,** Gavin B. Horn, Michael Fleisher, John S. Chen, Adityo Prakash and Edward R. Ratner as joint inventors.

Accordingly, on January 23, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a filing fee, and a surcharge for their late filing.

In response, on March 22, 2004, the instant petition was filed.

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A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1), as set forth above.

As to item (1), Rule 47 applicant has failed to show that non-signing inventor **Sachin Ahuja** cannot be reached. Applicant has stated that the mailing of January 19, 2004 was returned and noted, "moved left no address," and tried to call non-signing inventor **Sachin Ahuja**'s phone number and found it to be disconnected. Petitioner must make "a diligent effort" to locate the non-signing inventor. 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, 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. If these attempts to locate the non-signing inventor fail, then applicant will have established that the inventor cannot be reached. See MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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P.O. BOX 641330
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OFFICE OF PETITIONS

In re Application of :
Sachin Ahuja, Gavin B. Horn, :
Michael Fleisher, John S. Chen, : DECISION REFUSING STATUS
Adityo Prakash and Edward R. Ratner: UNDER 37 CFR 1.47(a)
Application No. 10/692,466 :
Filed: October 23, 2003
For: METHOD AND APPARATUS FOR
MERGING RELATED IMAGE SEGMENTS

This is in response to the "Petition Under 37 CFR 1.47(a)," filed March 22, 2004, regarding non-signing inventor **Adityo Prakash.**

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 October 23, 2003 without an executed oath or declaration and naming Sachin Ahuja, Gavin B. Horn, Michael Fleisher, John S. Chen, **Adityo Prakash** and Edward R. Ratner as joint inventors.

Accordingly, on January 23, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a filing fee, and a surcharge for their late filing.

In response, on March 22, 2004, the instant petition was filed.

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A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1), as set forth above.

As to item (1), Rule 47 applicant has failed to show that non-signing inventor **Adityo Prakash** cannot be reached. Applicant has stated that the mailing of January 19, 2004 was returned and noted, "moved," and "not deliverable as addressed - unable to forward." Petitioner must make "a diligent effort" to locate the non-signing inventor. 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, 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. If these attempts to locate the non-signing inventor fail, then applicant will have established that the inventor cannot be reached. See MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
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By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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P.O. BOX 641330
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OFFICE OF PETITIONS

In re Application of :
Sachin Ahuja, Gavin B. Horn, :
Michael Fleisher, John S. : DECISION GRANTING PETITION
Chen, Adityo Prakash and : UNDER 37 CFR 1.47(a)
Edward R. Ratner :
Application No. 10/692,466
Filed: October 23, 2003
Title: METHOD AND APPARATUS FOR MERGING RELATED IMAGE SEGMENTS

This is in response to the "Petition Under 37 CFR 1.47(a)," filed March 22, 2004, regarding non-signing inventor **Michael Fleisher.**

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.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MICHAEL FLEISHER
936 AZURE ST., APT. C3
SUNNYVALE, CA 94087

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OFFICE OF PETITIONS

In re Application of
Sachin Ahuja, Gavin B. Horn, **Michael Fleisher**, John S. Chen, Adityo Prakash and Edward R. Ratner
Application No. 10/692,466
Filed: October 23, 2003
For: METHOD AND APPARATUS FOR MERGING RELATED IMAGE SEGMENTS

Dear MICHAEL FLEISHER:

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

OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE, CA 95164

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/692,466
Filing Date	October 23, 2003
First Named Inventor	Sachin Ahuja
Art Unit	2621
Examiner Name	not yet known
Total Number of Pages in This Submission: 16	Attorney Docket Number: 10006.001510

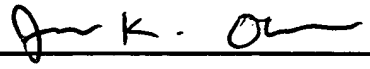
ENCLOSURES ***(check all that apply)***

- ☐ 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)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response 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) _____
- ☐ After Allowance Communication to Technology Center (TC)
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) *(please identify below)*:

Request for Reconsideration in regards to Sachin Ahuja; Copy of Decision Refusing Status under 37 CFR 1.47(a); Updated Statement of Pertinent Facts; Exhibits A-H; Return receipt postcard.

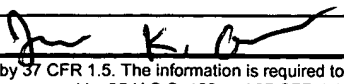
Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	James K. Okamoto, Reg No. 40,110 OKAMOTO & BENEDICTO LLP
Signature	
Date	July 26, 2004

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.

Typed or printed name	James K. Okamoto		
Signature		Date	July 26, 2004

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 1.14. This collection is estimated to 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 JC17 JUL 30 2004 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Sachin Ahuja, et al. Serial No.: 10/692,466 Filed: October 23, 2003 Title: Method and Apparatus for Merging Related Image Segments	Examiner: not yet known Art Unit: not yet known Atty. Docket No.: 10006.001510

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.47(a)
IN REGARDS TO SACHIN AHUJA

Sir:

This is being filed in response to the Decision Refusing Status Under 37 CFR 1.47(a) mailed May 27, 2004 regarding non-signing inventor Sachin Ahuja for the above-referenced patent application. Enclosed is a copy of said Decision Refusing Status.

Per the Decision Refusing Status, further proof is required that the non-signing inventor cannot be reached or refuses to sign so as to satisfy item (1) under 37 CFR 1.47(a). Accordingly, applicants hereby respectfully submit the attached Updated Statement of Pertinent Facts in Support of Filing on Behalf of Sachin Ahuja. The facts in the updated statement describes the exact facts which are relied on to establish that a diligent effort was made to locate Mr. Ahuja. The last known address of Mr. Ahuja appears from the majority of known facts to be 220 Jessie Ln #3, Mountain View, CA 94041.

A decision granting the petition under 37 CFR 1.47(a) is respectfully requested. If the Examiner has any questions or needs additional information, the Examiner is invited to contact the undersigned attorney at (408) 436-2110.

Dated: July 26, 2004

Respectfully submitted,

Sachin Ahuja, et al.

By: _____

James K. Okamoto
Attorney For Applicant(s)
Reg. No. 40,110
OKAMOTO & BENEDICTO LLP
P.O. Box 641330
San Jose, California 95164
(408) 436-2110
(408) 436-2114 (FAX)

Enclosure(s)

CERTIFICATE OF MAILING			
I hereby certify that this correspondence, including the enclosures identified herein, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. If the Express Mail Mailing Number is filled in below, then this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service pursuant to 37 CFR 1.10.			
Signature:			
Typed or Printed Name:	James K. Okamoto	Dated:	July 26, 2004
Express Mail Mailing Number (*optional*):			

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OIPE JC11
JUL 30 2004
PATENT & TRADEMARK OFFICE

MAILED:
JUN 03 2004

OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE, CA 95164

COPY MAILED
MAY 27 2004
OFFICE OF PETITIONS

In re Application of :
Sachin Ahuja, Gavin B. Horn, :
Michael Fleisher, John S. Chen, : DECISION REFUSING STATUS
Adityo Prakash and Edward R. Ratner: UNDER 37 CFR 1.47(a)
Application No. 10/692,466 :
Filed: October 23, 2003
For: METHOD AND APPARATUS FOR
MERGING RELATED IMAGE SEGMENTS

This is in response to the "Petition Under 37 CFR 1.47(a)," filed March 22, 2004, regarding non-signing inventor **Sachin Ahuja**.

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 October 23, 2003 without an executed oath or declaration and naming **Sachin Ahuja**, Gavin B. Horn, Michael Fleisher, John S. Chen, Adityo Prakash and Edward R. Ratner as joint inventors.

Accordingly, on January 23, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a filing fee, and a surcharge for their late filing.

In response, on March 22, 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 in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1), as set forth above.

As to item (1), Rule 47 applicant has failed to show that non-signing inventor **Sachin Ahuja** cannot be reached. Applicant has stated that the mailing of January 19, 2004 was returned and noted, "moved left no address," and tried to call non-signing inventor **Sachin Ahuja**'s phone number and found it to be disconnected. Petitioner must make "a diligent effort" to locate the non-signing inventor. 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, 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. If these attempts to locate the non-signing inventor fail, then applicant will have established that the inventor cannot be reached. See MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

OIPE JC11
JUL 30 2004
PATENT & TRADEMARK OFFICE

IN THE

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS:	Sachin Ahuja et al.
APPLICATION NO.:	10/692,466
TITLE:	Method and Apparatus for Merging Related Image Segments
GROUP ART UNIT:	Not yet known
ATTY. DKT. NO.:	10006.001510

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

UPDATED STATEMENT OF PERTINENT FACTS
IN SUPPORT OF FILING ON BEHALF OF SACHIN AHUJA

Dear Sir or Madam:

I, James K. Okamoto, hereby state the following:

a) On January 19 2004, I sent the application papers for the above-referenced U.S. Patent Application, including a copy of the application, along with a declaration to be signed and other documents) via first class mail to Sachin Ahuja at his previous address of 220 Jessie Ln #3, Mountain View, CA 94041. Included was a cover letter requesting Mr. Ahuja sign the declaration as a joint inventor of the above-referenced application. The postal office returned the envelope of papers sent to Mr. Ahuja with 1) an indication that the addressee had moved from the Jessie Ln address to 650 Castro St, Suite 120, Mountain View, CA 94041 and 2) an indication that the addressee had moved from the Castro St address and "left no address". Attached is a copy of the cover letter sent to Mr. Ahuja marked as Exhibit A and a copy of the returned envelope marked as Exhibit B.

b) On March 8, 2004, I called Sachin Ahuja's last known phone number at 650-625-0785. A message from the phone company stated that this number is disconnected or no longer in service.

c) On June 4, 2004, I performed an online search for Sachin Ahuja via Yahoo People Search. The Yahoo People Search returned the same Jessie Ln address for Sachin Ahuja. A phone number of (650) 625-0785 was also returned. Attached is a copy of the Yahoo People Search results marked as Exhibit C.

d) On June 4, 2004, after the Yahoo People Search, I sent the application papers for the above-referenced U.S. Patent Application, including a copy of the application, along

with a declaration to be signed and other documents) via certified mail with return receipt to Sachin Ahuja at the Jessie Ln address, which was the address indicated from the Yahoo People Search. The shipment details indicate that notice was left but addressee unknown, so the envelope was returned by the postal service to our office on June 14, 2004. In addition, I made a phone call to (650) 625-0785, which was the number indicated from the Yahoo People Search. An answering machine picked up the phone, and I left a message asking for Sachin Ahuja to call back my office in relation to patent applications. No return call was received in relation to this phone message. Attached is a copy of the cover letter sent marked as Exhibit D, a copy of the certified mail receipt marked as Exhibit E, and a copy of shipment details from the US Postal Service marked as Exhibit F.

e) Further on June 4, 2004, I performed a second online search via PeopleData in a diligent attempt to locate Sachin Ahuja. Five possible addresses for Sachin Ahuja were returned, including the same Jessie Ln address and four other potential addresses. Three of those potential addresses had phone numbers with a 315 area code. Attached is a copy of the PeopleData results marked as Exhibit G.

f) On June 23, 2004, I called each of the above-mentioned three phone numbers with the 315 area code. For the first number, (315) 638-3948, I received a message from the phone company that the number was not in service and that no further information was available. For the second number (315) 446-4870 and the third number (315) 422-8189, answering machines picked up the phone, so I left messages asking for Sachin Ahuja to call back my office in relation to patent applications. No return call was received in relation to any of these phone messages.

g) Further on June 4, 2004, I ordered a third online search via eFindOutTheTruth.com. This was a social security trace based on Sachin Ahuja's social security number. The results were returned on June 6, 2004 and indicated the same Jessie Ln address mentioned above. A copy of the social security trace results is attached hereto as Exhibit H.

h) To date, I have not received any return correspondence, return phone call, or other communication from Sachin Ahuja regarding the above.

James K. Okamoto

July 26, 2004
Date

Attachments (Exhibits A through H)

Exhibit A

OIPE JC11
JUL 30 2004
PATENT & TRADEMARK OFFICE

OKAMOTO & BENEDICTO LLP
INTELLECTUAL PROPERTY ATTORNEYS

January 19, 2004

CONFIDENTIAL

Sachin Ahuja
220 Jessie Lane, #3
Mountain View, CA 94041

RE: U.S. Patent Application

Title:	**Method and Apparatus for Merging Related Image Segments**
Serial No.:	**10/692,466**
Filing Date:	**October 23, 2003**
Inventor(s):	**Sachin Ahuja, et al.**
Our Ref:	**10006.001510**

Dear Sachin:

The above-referenced nonprovisional application was filed on October 23, 2003, on behalf of PTS Corporation, now the owner of all rights to this patent application. Please find enclosed a "Declaration for Utility or Design Patent Application", an "Assignment", a "Power of Attorney" and an "Oath & Assignment" for the application attached to a copy of the application.

As a co-inventor, please sign and date the above-mentioned three forms where indicated by the flags. By signing these forms, you are basically reconfirming that you are the joint inventor of the subject matter sought to be patented.

When the forms have been executed, please return all pages of these documents and the copy of the application to us as soon as possible. A first class pre-stamped return envelope is included for your convenience.

Thank you very much for your assistance in this matter. Please contact me at (408) 436-2111 if you have any questions regarding this matter.

Sincerely,
OKAMOTO & BENEDICTO LLP

James K. Okamoto

JKO/jvm
Enclosures

OKAMOTO & BENEDICTO LLP
1787 North First Street, Suite 270
San Jose, California 95112

UNITED STATES POSTAGE
185
5090 $03.85 PB9915328
5642 JAN 19 04
MAILED FROM ZIP CODE 95112

RETURN TO SENDER
INSUFFICIENT ADDRESS
MOVED LEFT NO ADDRESS
NO SUCH PERSON

Sachin Ahuja

AHUJ220 940412046 1703 15 01/23/04
NOTIFY SENDER OF NEW ADDRESS
AHUJA SACHIN
PMB 229
650 CASTRO ST STE 120
MOUNTAIN VIEW CA 94041-2068

RETURN TO SENDER
INSUFFICIENT ADDRESS
MOVED LEFT NO ADDRESS
NO SUCH PERSON

Exhibit B

Exhibit C

Your People Search:

Create / Edit My Listing - Remove My Listing

first Sachin last Ahuja city state Entire USA Yahoo! Search

FEATURED SPONSOR

- **Click for all Sachin Ahuja matches** - Unlisted numbers & addresses. Background checks. Satellite photos.
  www.PeopleData.com

PEOPLE SEARCH RESULTS 1 - 1 of **1** results

Name	Address	Phone
Sachin Ahuja	220 Jessie Ln Mountain View, CA Add to Address Book, Map	(650) 625-0785

Showing **1 - 1** of **1**

First | Previous | Next | Last

FEATURED SPONSOR

- **Find Sachin Ahuja in PeopleData** - Unlisted phone numbers & addresses. Background checks. Satellite photos.
  www.PeopleData.com

Search the Web: Sachin Ahuja Yahoo! Search Advanced Web Search

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Data by Acxiom - copyright notice

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Exhibit D

OKAMOTO & BENEDICTO LLP
INTELLECTUAL PROPERTY ATTORNEYS

June 4, 2004

Via Certified Mail with Return Receipt

Sachin Ahuja
220 Jessie Lane, #3
Mountain View, CA 94041

RE: U.S. Patent Application

Title:	**Method and Apparatus for Merging Related Image Segments**
Serial No.:	**10/692,466**
Filing Date:	**October 23, 2003**
Inventor(s):	**Sachin Ahuja, et al.**
Our Ref:	**10006.001510**

Dear Sachin:

The above-referenced nonprovisional application was filed on October 23, 2003, on behalf of PTS Corporation, now the owner of all rights to this patent application. Please find enclosed a "Declaration for Utility or Design Patent Application", an "Assignment", and a "Power of Attorney" for the above-referenced application attached to a copy of the application.

As a co-inventor, please sign and date the above-mentioned three forms where indicated by the flags. By signing these forms, you are basically reconfirming that you are the joint inventor of the subject matter sought to be patented.

When the forms have been executed, please return all pages of these documents and the copy of the application to us by Friday, June 18, 2004 (two weeks from today). A first class pre-stamped return envelope is included for your convenience.

We very much appreciate your assistance with this matter. Please contact me at (408) 436-2111 if you have any questions regarding this matter.

Sincerely,
OKAMOTO & BENEDICTO LLP

James K. Okamoto

JKO/jvm
Enclosures

Exhibit E

7003 1010 0005 4552 1633

U.S. Postal Service™
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For delivery information visit our website at www.usps.com®

MOUNTAIN VIEW CA 94041

OFFICIAL USE

Postage	$ $2.21
Certified Fee	$2.30
Return Reciept Fee (Endorsement Required)	$1.75
Restricted Delivery Fee (Endorsement Required)	$0.00
Total Postage & Fees	$ $6.26

USPS LOBBY MOW SAN JOSE CA 95101 JUN 4 2004 Postmark Here 0002 25 06/04/2004

Sent To Sachin Ahuja

Street, Apt. No.; or PO Box No. 220 Jessie Lane #3

City, State, ZIP+4 Mountain View, CA 94041

PS Form 3800, June 2002 See Reverse for Instructions

SanJose
SanJose, California
951019713
0568370002-0095
06/04/2004 (800)275-8777 05:12:07 PM

Sales Receipt

Product Description	Sale Qty	Unit Price	Final Price
MOUNTAIN VIEW CA 94041			$2.21
First-Class			
Return Receipt			$1.75
Certified			$2.30
Label Serial #:		70031010000545521633	
Customer Postage			-$6.26
Subtotal:			$0.00
			========
Issue PVI:			$0.00
Total:			$0.00

Paid by:

Bill#: 1000501635642
Clerk: 25

— All sales final on stamps and postage. —
Refunds for guaranteed services only.
Thank you for your business.
Customer Copy

Exhibit F

UNITED STATES POSTAL SERVICE

Home

Track & Confirm

Shipment Details

You entered 7003 1010 0005 4552 1633

Your item was delivered at 1:26 pm on June 14, 2004 in SAN JOSE, CA 95112.

Here is what happened earlier:

- ADDRESSEE UNKNOWN, June 10, 2004, 7:11 am, MOUNTAIN VIEW, CA
- NOTICE LEFT, June 07, 2004, 1:36 pm, MOUNTAIN VIEW, CA 94041
- FORWARDED, June 05, 2004, 8:40 am, MOUNTAIN VIEW, CA
- ACCEPTANCE, June 04, 2004, 5:10 pm, SAN JOSE, CA 95101

Track & Confirm

Enter label number:

Go>

Track & Confirm FAQs Go>

Notification Options

Track & Confirm by email What is this? Go>

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Preserving the Trust

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Exhibit G

PeopleData™ **Begin New Search** Home

Find Unlimited Additional People for $1 each

SEARCH RESULTS for:[SACHIN AHUJA]

Possible Name Combinations	Total Matches
SACHIN AHUJA	5
Total	5

SACHIN AHUJA - 5 Matches

Name	Address	Phone Number	Background Check	Satellite Photo	Birtl Date
1. SACHIN AHUJA	220 JESSIE LN 3 MOUNTAIN VIEW CA 94041	(650) 625-0785	Available	Available	1970
2. SACHIN AHUJA	5469 LAGOON CT B TERRE HAUTE IN 47803		Available	Available	
3. SACHIN AHUJA	245 VILLAGE BLVD S BALDWINSVILLE NY 13027	(315) 638-3948	Available	Available	
4. SACHIN AHUJA	3 JAMAR DR FAYETTEVILLE NY 13066	(315) 446-4870	Available	Available	
5. SACHIN AHUJA	102 RONEY LN 34 SYRACUSE NY 13210	(315) 422-8189	Available	Available	

Find Unlimited Additional People for $1 each

(c) PeopleData, Inc. 2004

Copyright: This entire web site is Copyright © 2002-2003 eFindOutTheTruth

Exhibit H

James Okamoto

From: eFindOutTheTruth.com [info@eFindOutTheTruth.com]
Sent: Sunday, June 06, 2004 2:18 PM
To: james@obllp.com
Subject: AHUJA SACHIN

This is a **CONFIDENTIAL COMMUNICATION** and is intended for the exclusive use of our client and/or their counsel. All files, information, reports or attachments transmitted within this communication are intended solely for the use of the individual(s) or entity to whom they are addressed. Information contained in this transmission have been gathered from sources and individuals deemed reliable by **eFindOutTheTruth.com, Inc.**; however, no guarantee, warranty, or other representation is made as to the accuracy of information received from third parties, or its suitability for any particular purpose. Acceptance of this confidential communication constitutes acceptance and full responsibility for the legal consequences of any use or disclosure of this email or its contents.

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Best Regards,
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Background Checks and Criminal Records
We WILL find ANYONE...even on the INTERNET!
Customer Service Fax Line: (954) 252-4493
Email: research@eFindOutTheTruth.com

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Basic People Locate Search

Name/SSN	Age	DOB	Address	Occupancy Dates	Phone
AHUJA SACHIN 077-82-xxxx	33	08/17/1970	220 JESSIE LN APT 3 MOUNTAIN VIEW, CA 94041	11/1999 - 04/2004	

Information contained herein is derived solely from public records, which may not be 100 percent accurate, up-to-date, and/or complete. Users should not assume that this data provides a complete or accurate history of any person's criminal history and/or record information. Users should consult state and federal laws before using this information in making decisions on hiring or firing of employees. **eFindOutTheTruth.com, Inc.** assumes no liability for any claims for damages arising from the use of this data beyond the actual cost of the searches performed.

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/692,466
Filing Date	October 23, 2003
First Named Inventor	Sachin Ahuja
Art Unit	2621
Examiner Name	not yet known
Total Number of Pages in This Submission: 18	Attorney Docket Number: 10006.001510

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)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response 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) ____
- ☐ After Allowance Communication to Technology Center (TC)
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) *(please identify below)*:

Request for Reconsideration in regards to Adityo Prakash; Copy of Decision Refusing Status under 37 CFR 1.47(a); Updated Statement of Pertinent Facts; Exhibits A-I; Return receipt postcard.

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual name	James K. Okamoto, Reg No. 40,110 OKAMOTO & BENEDICTO LLP
Signature	James K. Okamoto
Date	July 26, 2004

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.

Typed or printed name	James K. Okamoto		
Signature	James K. Okamoto	Date	July 26, 2004

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 1.14. This collection is estimated to 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 JUL 30 2004 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Sachin Ahuja, et al. Serial No.: 10/692,466 Filed: October 23, 2003 Title: Method and Apparatus for Merging Related Image Segments	Examiner: not yet known Art Unit: not yet known Atty. Docket No.: 10006.001510

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.47(a)
IN REGARDS TO ADITYO PRAKASH

Sir:

This is being filed in response to the Decision Refusing Status Under 37 CFR 1.47(a) mailed May 28, 2004 regarding non-signing inventor Adityo Prakash for the above-referenced patent application. Enclosed is a copy of said Decision Refusing Status.

Per the Decision Refusing Status, further proof is required that the non-signing inventor cannot be reached or refuses to sign so as to satisfy item (1) under 37 CFR 1.47(a). Accordingly, applicants hereby respectfully submit the attached Updated Statement of Pertinent Facts in Support of Filing on Behalf of Adityo Prakash. The facts in the updated statement describes the exact facts which are relied on to establish that a diligent effort was made to locate Mr. Prakash. The last known address for Mr. Prakash appears from known facts to be 3320 Clearview Terrace, Fremont, CA 94539.

A decision granting the petition under 37 CFR 1.47(a) is respectfully requested. If the Examiner has any questions or needs additional information, the Examiner is invited to contact the undersigned attorney at (408) 436-2110.

Dated: July 26, 2004

Respectfully submitted,

Sachin Ahuja, et al.

By: _____

James K. Okamoto
Attorney For Applicant(s)
Reg. No. 40,110
OKAMOTO & BENEDICTO LLP
P.O. Box 641330
San Jose, California 95164
(408) 436-2110
(408) 436-2114 (FAX)

Enclosure(s)

CERTIFICATE OF MAILING			
I hereby certify that this correspondence, including the enclosures identified herein, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. If the Express Mail Mailing Number is filled in below, then this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service pursuant to 37 CFR 1.10.			
Signature:			
Typed or Printed Name:	James K. Okamoto	Dated:	July 26, 2004
Express Mail Mailing Number (*optional*):			

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JUL 30 2004
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JUN 03 2004

OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE, CA 95164

COPY MAILED

MAY 28 2004

OFFICE OF PETITIONS

In re Application of :
Sachin Ahuja, Gavin B. Horn, :
Michael Fleisher, John S. Chen, : DECISION REFUSING STATUS
Adityo Prakash and Edward R. Ratner: UNDER 37 CFR 1.47(a)
Application No. 10/692,466 :
Filed: October 23, 2003
For: METHOD AND APPARATUS FOR
MERGING RELATED IMAGE SEGMENTS

This is in response to the "Petition Under 37 CFR 1.47(a)," filed March 22, 2004, regarding non-signing inventor **Adityo Prakash.**

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 October 23, 2003 without an executed oath or declaration and naming Sachin Ahuja, Gavin B. Horn, Michael Fleisher, John S. Chen, **Adityo Prakash** and Edward R. Ratner as joint inventors.

Accordingly, on January 23, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a filing fee, and a surcharge for their late filing.

In response, on March 22, 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 in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1), as set forth above.

As to item (1), Rule 47 applicant has failed to show that non-signing inventor **Adityo Prakash** cannot be reached. Applicant has stated that the mailing of January 19, 2004 was returned and noted, "moved," and "not deliverable as addressed - unable to forward." Petitioner must make "a diligent effort" to locate the non-signing inventor. 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, 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. If these attempts to locate the non-signing inventor fail, then applicant will have established that the inventor cannot be reached. See MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

OIPE JC11 JUL 30 2004 PATENT & TRADEMARK OFFICE

IN THE

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS:	Sachin Ahuja et al.
APPLICATION NO.:	10/692,466
TITLE:	Method and Apparatus for Merging Related Image Segments
GROUP ART UNIT:	Not yet known
ATTY. DKT. NO.:	10006.001510

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

UPDATED STATEMENT OF PERTINENT FACTS
IN SUPPORT OF FILING ON BEHALF OF ADITYO PRAKASH

Dear Sir or Madam:

I, James K. Okamoto, hereby state the following:

a) On January 19 2004, I sent the application papers for the above-referenced U.S. Patent Application, including a copy of the application, along with a declaration to be signed and other documents) via first class mail to Mr. Adityo Prakash at his previous address of 600 Marlin Court, Redwood Shores, CA 94065. Included was a cover letter requesting Mr. Prakash sign the declaration as a joint inventor of the above-referenced application. The postal office returned the envelope of papers sent to Mr. Prakash with a note that the Mr. Prakash has "moved" and that the envelope was "not deliverable as addressed--unable to forward". Attached is a copy of the cover letter sent to Mr. Prakash marked as Exhibit A and the envelope returned by the postal office marked as Exhibit B.

b) On March 8, 2004, I sent another copy of the application papers with a cover letter to Mr. Sanford Kingsley, an attorney who has represented Mr. Prakash in the past. The postal office returned the envelope of papers sent to Mr. Kingsley with a note that the Mr. Sanford Kingsley "no longer at this address". Attached is a copy of the cover letter sent to Mr. Kingsley marked as Exhibit C and the envelope returned by the postal office marked as Exhibit D.

c) On June 4, 2004, I performed an online search for Adityo Prakash via Yahoo People Search. The Yahoo People Search did not find any people matching Adityo Prakash. Attached is a copy of the Yahoo People Search results marked as Exhibit E.

d) Further on June 4, 2004, I performed a second online search via PeopleData in a diligent attempt to locate Adityo Prakash. Two possible addresses for Adityo Prakash were returned, including the Marlin Court address and another address at 3320 Clearview Terrace, Fremont, CA 94539. There was a phone number indicated for the Marlin Court address but no phone number indicated for the Clearview Terrace address. Attached is a copy of the PeopleData results marked as Exhibit F.

e) On June 4, 2004, after the Yahoo People Search, I sent the application papers for the above-referenced U.S. Patent Application, including a copy of the application, along with a declaration to be signed and other documents) via certified mail with return receipt to Adityo Prakash at the Clearview Terrace address, which was the address indicated from the PeopleData search. The shipment details indicate that notices were twice left, but the envelope was unclaimed. In addition, I made a phone call to (650) 637-9970, which was the number indicated from the PeopleData search. A phone company message indicated that the number was disconnected or no longer in service. Attached is a copy of the cover letter sent marked as Exhibit G, a copy of the certified mail receipt marked as Exhibit H, and a copy of shipment details from the US Postal Service marked as Exhibit I.

f) To date, I have not received any return correspondence, return phone call, or other communication from Adityo Prakash regarding the above.

James K. Okamoto

July 26, 2004
Date

Attachments (Exhibits A through I)

Exhibit A

OKAMOTO & BENEDICTO LLP
INTELLECTUAL PROPERTY ATTORNEYS

January 19, 2004

CONFIDENTIAL

Adityo Prakash
600 Marlin Court
Redwood Shores, CA 94065

RE: U.S. Patent Application

Title:	**Method and Apparatus for Merging Related Image Segments**
Serial No.:	**10/692,466**
Filing Date:	**October 23, 2003**
Inventor(s):	**Sachin Ahuja, et al.**
Our Ref:	**10006.001510**

Dear Adityo:

The above-referenced nonprovisional application was filed on October 23, 2003, on behalf of PTS Corporation, now the owner of all rights to this patent application. Please find enclosed a "Declaration for Utility or Design Patent Application", an "Assignment", a "Power of Attorney" and an "Oath & Assignment" for the application attached to a copy of the application.

As a co-inventor, please sign and date the above-mentioned three forms where indicated by the flags. By signing these forms, you are basically reconfirming that you are the joint inventor of the subject matter sought to be patented.

When the forms have been executed, please return all pages of these documents and the copy of the application to us as soon as possible. A first class pre-stamped return envelope is included for your convenience.

Thank you very much for your assistance in this matter. Please contact me at (408) 436-2111 if you have any questions regarding this matter.

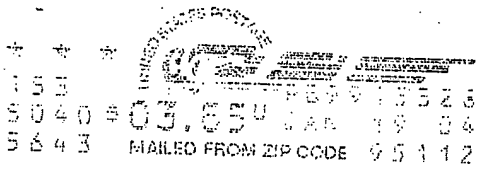
Sincerely,
OKAMOTO & BENEDICTO LLP

James K. Okamoto

JKO/jvm
Enclosures

OKAMOTO & BENEDICTO LLP
1737 North First Street, Suite 270
San Jose, California 95112

153
5040 $03.65 U JAN 19 04
5643 MAILED FROM ZIP CODE 95112



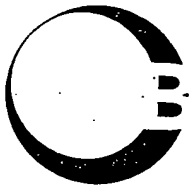
Adityo Prakash
600 Marlin Court
Redwood Shores, CA 94065

MOVED

RETURNED TO SENDER
NOT DELIVERABLE
AS ADDRESSED —
UNABLE TO FORWARD

Exhibit B

Exhibit C



OKAMOTO & BENEDICTO LLP
INTELLECTUAL PROPERTY ATTORNEYS

March 8, 2004

Mr. Sanford Kingsley, Esq.
Leboeuf, Lamb, Greene & McRae LLP
One Embarcadero Center, Suite 400
San Francisco, CA 94111

For: Mr. Adityo Prakash
600 Marlin Court
Redwood Shores, CA 94065

Re: U.S. Patent Application
Title: Method and Apparatus for Merging Related Image
Inventors: Sachin Ahuja, Gavin Horn, Michael Fleisher, John Chen, Adityo Prakash, and Edward Ratner
Filing Date: October 23, 2003
Serial No.: 10/692,466
Our Ref.: 10006.001510

Dear Mr. Kingsley:

Please find attached a set of "Declaration for Utility or Design Patent Application," "Power of Attorney or Authorization of Agent," and "Assignment" forms for Mr. Prakash's execution.

As a co-inventor in the above-referenced patent application, Mr. Prakash is obligated to sign these documents based on his Signagenics Laboratories, Inc. (aka Pulsent Corporation) Employee Propriety Information and Inventions Agreement that he signed on January 2, 1998. My client PTS Corporation bought rights to this patent application out of Pulsent's bankruptcy.

When the above three forms have been executed, please return all pages of these documents to us as soon as possible or by March 17, 2004. A first- class pre-stamped return envelope is included for your convenience.

If you have any questions, please call me at 408-436-2111. Thank you very much for your assistance.

Sincerely,
OKAMOTO & BENEDICTO LLP

James K. Okamoto

JKO/jvm
Enclosures

OKAMOTO & BENEDICTO LLP
1737 North First Street, Suite 270
San Jose, California 95112

NO LONGER AT
THIS ADDRESS

RETURN TO SENDER

[redacted] LLP
[redacted]
San Francisco, CA 94111

RETURN TO SENDER

NO LONGER AT
THIS ADDRESS

Exhibit D

Your People Search:

Create / Edit My Listing - Remove My Listing

first adityo last prakash city state Entire USA Yahoo! Search

FEATURED SPONSOR

- **Click for all adityo prakash matches** - Unlisted numbers & addresses. Background checks. Satellite photos.
  www.PeopleData.com

We didn't find any people matching **adityo prakash** .

Suggestions:

- Double check your spelling.
- Try using the wildcard character ("*"). For example, typing "Anders*" as your name search criteria will return "Anderson", "Andersen", etc.
- Do a Yahoo! Search of the web for adityo prakash.

FEATURED SPONSOR

- **Find adityo prakash in PeopleData** - Unlisted phone numbers & addresses. Background checks. Satellite photos.
  www.PeopleData.com

Search the Web: adityo prakash Yahoo! Search Advanced Web Search

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Exhibit F

PeopleData™

Begin New Search

Home

Find Unlimited Additional People for $1 each

SEARCH RESULTS for:[ADITYO PRAKASH]

Possible Name Combinations	Total Matches
ADITYO PRAKASH	2
ADITYO	9
Total	11

ADITYO PRAKASH - 2 Matches

Name	Address	Phone Number	Background Check	Satellite Photo	Birth
1. ADITYO P PRAKASH	3320 CLEARVIEW TER FREMONT CA 94539		Available	Available	Janua 1967
2. ADITYO P PRAKASH	600 MARLIN CT REDWOOD CITY CA 94065	(650) 637-9970	Available	Available	Janua 1967

ADITYO - 9 Matches

Name	Address	Phone Number	Background Check	Satellite Photo	Birth
3. ADITYO P PRAKASH	3320 CLEARVIEW TER FREMONT CA 94539		Available	Available	Janua 1967
4. ADITYO NUGROHO	MOUNTAIN VIEW CA 94035	(650) 967-6362	n/a	n/a	
5. ADITYO P PRAKASH	600 MARLIN CT REDWOOD CITY CA 94065	(650) 637-9970	Available	Available	Janua 1967
6. ADITYO SOEHAR	395 BEACON ST BOSTON MA 02116		Available	Available	Janua 1971
7. ADITYO SOEHARSANO	148 N NORTH BEACON ST BRIGHTON MA 02135		Available	Available	Janua 1960
8. ADITYO S PURBOWASI	10 ROGERS ST 209 CAMBRIDGE MA 02142		Available	Available	May 1
9. ADITYO K REDDY	3 TWILIGHT CT LIVINGSTON NJ 07039	(973) 422-0238	Available	Available	June :
10. ADITYO NUGROHO	1600 WELSH AVE COLLEGE STATION TX 77840	(979) 485-0448	Available	Available	
11. ADITYO S PURBOWASI	1320 N VEITCH ST 1221 ARLINGTON VA 22201		Available	Available	May 1

Find Unlimited Additional People for $1 each

(c) PeopleData, Inc. 2004

Exhibit G

OKAMOTO & BENEDICTO LLP
INTELLECTUAL PROPERTY ATTORNEYS

June 4, 2004

Via Certified Mail with Return Receipt

Adityo Prakash
3320 Clearview Terrace
Fremont, CA 94539

RE: U.S. Patent Application
Title: Method and Apparatus for Merging Related Image Segments
Serial No.: 10/692,466
Filing Date: October 23, 2003
Inventor(s): Sachin Ahuja, et al.
Our Ref: 10006.001510

Dear Adityo:

The above-referenced nonprovisional application was filed on October 23, 2003, on behalf of PTS Corporation, now the owner of all rights to this patent application. Please find enclosed a "Declaration for Utility or Design Patent Application", an "Assignment", a "Power of Attorney" and an "Oath & Assignment" for the above-referenced application attached to a copy of the application.

As a co-inventor, please sign and date the above-mentioned three forms where indicated by the flags. By signing these forms, you are basically reconfirming that you are the joint inventor of the subject matter sought to be patented.

When the forms have been executed, please return all pages of these documents and the copy of the application to us Friday, June 18, 2004 (two weeks from today). A first class pre-stamped return envelope is included for your convenience.

Thank you very much for your assistance in this matter. Please contact me at (408) 436-2111 if you have any questions regarding this matter.

Sincerely,
OKAMOTO & BENEDICTO LLP

James K. Okamoto

JKO/jvm
Enclosures

1737 North First Street • Suite 270 • San Jose, California 95112 • Telephone (408) 436-2110 • Facsimile (408) 436-2114

Exhibit H

7003 1010 0005 4552 1640

U.S. Postal Service™
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For delivery information visit our website at www.usps.com®

FREMONT CA 94539 **OFFICIAL USE**

Postage	$ $2.21
Certified Fee	$2.30
Return Receipt Fee (Endorsement Required)	$1.75
Restricted Delivery Fee (Endorsement Required)	$0.00
Total Postage & Fees	$ $6.26

USPS SAN JOSE CA 95101-0002 JUN 25 2004 Postmark Here LOBBY NOW

Sent To: Aditya Prakash
Street, Apt. No.; or PO Box No.: 3320 Clearview Terrace
City, State, ZIP+4: Fremont CA 94539

PS Form 3800, June 2002 — See Reverse for Instructions

SanJose
SanJose, California
951019713
0568370002-0095
06/04/2004 (800)275-8777 05:13:33 PM

Sales Receipt

Product Description	Sale Qty	Unit Price	Final Price
FREMONT CA 94539			$2.21
First-Class			
Return Receipt			$1.75
Certified			$2.30
Label Serial #:	70031010000545521640		-$6.26
Customer Postage			$0.00
Subtotal:			$0.00
Issue PVI:			
Total:			$0.00

Paid by:

Bill#: 1000501635659
Clerk: 25

All sales final on stamps and postage.
Refunds for guaranteed services only.
Thank you for your business.
Customer Copy

Exhibit I

UNITED STATES POSTAL SERVICE®

Home

Track & Confirm

Shipment Details

You entered 7003 1010 0005 4552 1640

Your item was delivered at 3:30 pm on July 07, 2004 in SAN JOSE, CA 95112.

Here is what happened earlier:

- UNCLAIMED, July 06, 2004, 3:02 pm, FREMONT, CA
- NOTICE LEFT, June 26, 2004, 1:24 pm, FREMONT, CA 94539
- NOTICE LEFT, June 09, 2004, 12:28 pm, FREMONT, CA 94539
- ACCEPTANCE, June 04, 2004, 5:12 pm, SAN JOSE, CA 95101

Notification Options

Track & Confirm by email What is this? Go>

Track & Confirm

Enter label number:

Go>

Track & Confirm FAQs Go>

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CARMEN C. COOK
PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
SUITE 223
SAN JOSE, CA 95134

MAILED

MAY 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Dale K. Hitt	:	DECISION ON PETITION
Application No. 10/692,476	:	TO WITHDRAW
Filed: October 24, 2003	:	FROM RECORD
Attorney Docket No. DSI-P101	:	

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 4, 2004.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on November 9, 2005 the power of attorney was revoked by the applicant 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: Tue Nguyen
496 Olive Ave.
Fremont CA 94539

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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KOPPEL, PATRICK & HEYBL
555 ST. CHARLES DRIVE
SUITE 107
THOUSAND OAKS, CA 91360

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JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of
Philip Berardi
Application No. 10/692,481
Filed: October 23, 2003
Attorney Docket No. 418-27-002

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 29, 2005.

The request is **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 Louis A. Mok on behalf of all attorneys of record who are associated with customer No. 23935.

All attorneys/agents associated with the Customer Number 23935 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Philip Berardi at the address indicated below.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for

recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on February 2, 2006 does not include one of the above two options.

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: PHILIP BERARDI
3529 OLD CONEJO ROAD
THOUSAND OAKS, CA 91359

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

D. WHITLOW BIVENS
MUSICK, PEELER & GARRETT, LLP
225 BROADWAY
SUITE 1900
SAN DIEGO, CA 92101

COPY MAILED

JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of
Philip Berardi
Application No. 10/692,481
Filed: October 23, 2003
Attorney Docket No. 44325-001

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed February 2, 2006.

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 no statement under 3.73(b) was filed.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on February 2, 2006 was signed by the assignee of the company.

All future communications from the Office will continue to be directed to the address of record 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: PHILIP BERARDI
3529 OLD CONEJO ROAD
THOUSAND OAKS, CA 91359

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SOCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE, CA 91362

COPY MAILED

JAN 09 2007

OFFICE OF PETITIONS

In re Application of :
Philip Berardi :
Application No. 10/692,481 : DECISION ON PETITION
Filed: October 23, 2003 : TO WITHDRAW
Attorney Docket No. I008-P03170US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 1, 2005.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Socal IP Law Group has been revoked by the applicant of the patent application on August 17, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KOPPEL, PATRICK & HEYBL
555 ST. CHARLES DRIVE
SUITE 107
THOUSAND OAKS, CA 91360

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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MUSICK, PEELER & GARRETT LLP
225 BROADWAY, SUITE 1900
SAN DIEGO, CA 92101

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JUL 2 9 2008

In re Application of	:	
Philip BERARDI	:	
Application No. 10/692,481	:	DECISION ON PETITION
Filed: October 23, 2003	:	TO WITHDRAW
Attorney Docket No. 44325.001	:	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 July 2, 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 Donald Bivens on behalf of all practitioners of record.

All practitioners of record have been withdrawn.

Applicant is reminded that there is no practitioner of record at this time.

The correspondence address has been changed and the new correspondence address is the address copied below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PHILIP BERARDI FOR THE BERARDI FAMILY TRUST
P.O. BOX 3372
THOUSAND OAKS, CA 91359

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE DIRECTV GROUP, INC.
PATENT DOCKET ADMINISTRATION
CA / LA1 / A109
2230 E. IMPERIAL HIGHWAY
EL SEGUNDO CA 90245

COPY MAILED
DEC 09 2008

In re Application of :
Ernest C. Chen :
Application No. 10/692,491 : DECISION ON PETITION
Filed: October 24, 2003 :
Attorney Docket No. PD-201150 :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed October 15, 2008, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice of Allowance and Fees Due of September 6, 2007, which set a three (3) month statutory period for reply. Accordingly, a reply was due on or before December 6, 2007.

Petitioner states that a timely reply was transmitted via certificate of facsimile transmission on November 20, 2007, which included the following papers: Request for Continued Examination (RCE) Transmittal Form PTO/SB/30, in duplicate, and a Preliminary Amendment. Petitioner has submitted a copy of the previously transmitted correspondence, which bears a certificate of facsimile transmission dated November 20, 2007, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is

dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of September 6, 2007 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 transmitted by facsimile on November 20, 2007.

Also, in regard to the assertion that the fee for the RCE filed November 1, 2007 should have been charged to applicant's deposit account pursuant to the authorization to charge given March 29, 2004, an authorization to charge post allowance fees must be given after the mailing of the notice of allowance. See 37 CFR §§ 1.25(b) and 1.311(b) and MPEP § 509.01. Thus, the March 29, 2004 authorization could not serve as the basis for charging the deposit account for the November 1, 2007 RCE since the authorization was made before the mailing of the notice of allowance on September 6, 2007.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

This application is being referred to Technology Center AU 2616 for appropriate action in the normal course of business on the reply received with petition.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
SUITE 223
SAN JOSE CA 95134

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OFFICE OF PETITIONS

In re Application of	:	
Hitt, Dale K.	:	DECISION ON PETITION
Application No. 10/692,518	:	TO WITHDRAW
Filed: October 24, 2003	:	FROM RECORD
Attorney Docket No. DSI-P102	:	

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 4, 2004.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys associated with Customer Number 32566 has been revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

All future communications from the Office will to be directed to the below-listed address.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

cc: TUE NGUYEN
496 OLIVE AVENUE
FREMONT CA 94539

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MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
SUITE 223
SAN JOSE, CA 95134

In re application of:
Dale K. Hitt
Application No. 10/692,519
Filed: October 24, 2003
For: RF BASED POSITIONING AND INTRUSION DETECTION USING A WIRELESS SENSOR NETWORK

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on August 4, 2004

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All attorneys/agents associated with Customer Number 32566 have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Dale K. Hitt, CEO
Digital Sun
5655 Silver Creek Valley Rd. #434
San Jose, CA 95138

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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

Hickman Palermo Truong & Becker/Oracle
2055 Gateway Place
Suite 550
San Jose, CA 95110-1083

In re Application of	:	
Paul Tangen, et al.	:	
Application No. 10/692,525	:	DECISION ON PETITION
Filed: October 24, 2003	:	TO WITHDRAW
Attorney Docket No. 50277-3439	:	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, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Hickman Palermo Truong & Becker/Oracle has been revoked by the assignee of the patent application on February 2, 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 Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Townsend and Townsend and Crew LLP**
Two Embarcadero Center
8th Floor
San Francisco, CA 94111-3834

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON ST
SUITE 4000
CHARLOTTE NC 28280-4000

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DEC 20 2004

OFFICE OF PETITIONS

In re Application of
Farzin Sarem and Leila-Ouassila Sarem Damerdji
Application No. 10/692,529
Filed: October 25, 2003
Attorney Docket No. 046190/270365

DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the "STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. § 1.47)", filed November 29, 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 CFR 1.136(a).

The above-identified application was filed on October 25, 2003, without an executed oath or declaration. Accordingly, on September 29, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration, together with the surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition, and paid both the petition fee and the surcharge for late filing of 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 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (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 (2) and (5).

As to requirement (2), Rule 47 applicant has not submitted a proper 37 C.F.R. 1.63 declaration. On renewed petition, applicant must submit an oath or declaration in compliance with 37 C.F.R. § 1.63. Here, the declaration was executed by "Its manager" John Christopher Conway. When a corporation is the Rule 47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally execute the oath or declaration. Alternatively, a corporation may authorize any person, including a registered attorney or agent, to sign the oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, proof of the attorney's or agent's authority in the form of a statement signed by the appropriate corporate officer must be submitted, or the attorney or agent can simply state that he or she is authorized to sign on behalf of the corporation.[1]

It does not appear that Conway is an "officer" of Rule 47(b) applicant Societe Nouvelle Cell Tissue Progress. Morever, it does not appear that petitioner submitted a statement of authority for Conway to sign on behalf of Societe Nouvelle Cell Tissue Progress. On renewed petition, petitioner must submit a declaration executed by one of the officers of the corporation, or must include a statement of authority.

As to requirement (5), applicant has not shown a sufficient proprietary interest. It is true that a proprietary interest can be shown by submitting a copy of an agreement to assign (e.g. an employment agreement executed by the nonsigning inventor).[2] However, here the employment agreement submitted on petition is written in French. Accordingly, it can not be determined by the undersigned whether it contains an agreement to assign provision. On renewed petition, it is requested that petitioner submit a translated copy of the employment agreement.

The petition fee of $130 has been charged to Deposit Account No. 16-0605, as authorized.

---

[1] See MPEP 409.03(b).

[2] See MPEP 409.03(f).

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 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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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON ST
SUITE 4000
CHARLOTTE NC 28280-4000

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OFFICE OF PETITIONS

In re Application of	:	DECISION NOTING JOINDER
Farzin Sarem and Leila-Ouassila	:	OF INVENTOR AND PETITION
Sarem Damerdji	:	UNDER 37 CFR 1.47(b) MOOT
Application No. 10/692,529	:	
Filed: October 25, 2003	:	
Attorney Docket No. 046190/270365		

This is in response to the renewed petition under 37 C.F.R. § 1.47(b), filed February 16, 2005.

The above-identified application was filed on October 25, 2003, without an executed oath or declaration. Accordingly, on September 29, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration, together with the surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(b) on November 29, 2004, and paid both the petition fee and the surcharge for late filing of the declaration. However, the petition was dismissed in a decision mailed on December 20, 2004.

On renewed petition, petitioner has submitted a declaration executed by both inventors. The declaration has been found to be in compliance with 37 CFR 1.63.

In view of the **joinder** of the inventors, further consideration under 37 CFR 1.47(b) is not necessary and the petition is considered to be **moot**. This application does not have any Rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(b).

The application file is being forwarded to Group Art Unit 2131 for docketing and examination in due course.

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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Dale K. Hitt, CEO
Digital Sun
5655 Silver Creek Valley Rd. #434
San Jose CA 95138

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OFFICE OF PETITIONS

In re Application of :
Dale K. Hitt :
Application No. 10/692,532 : DECISIONS ON PETITIONS
Filed: October 24, 2003 :
Title: Wireless sensor system for :
environmental monitoring and control :

This is a decision on the petition filed August 17, 2005, 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 June 6, 2006, to revive the above-identified application.

On September 28, 2004, the Office mailed a Notice to File Corrected Application Papers, which set a two-month extendable period to submit replacement drawings. The application became abandoned on November 29, 2004, for failure to submit a timely and appropriate response. On June 9, 2005, the Office mailed a Notice of Abandonment.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

In the present petition, petitioner requested that the Office withdraw the holding of abandonment due to non-receipt of the Office communication. A review of the record indicates no irregularity in the mailing of the Notice of September 28, 2004, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office communication was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself

of response due dates and show that the due date for the Notice to File Corrected Application Papers mailed on September 28, 2004, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering the period from September 28, 2004 through November 28, 2004, to demonstrate nonreceipt of the notice. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office communication, and where petitioner would have entered the receipt date of the Office communication had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from petitioner, or any other person at the address who may have handled the Office communication, indicating that a search was conducted of the location where correspondence from the USPTO is kept; however, the Office communication was not found. Lastly, petitioner must state that he was, in fact, receiving mail at the correspondence address of record through November 28, 2004.

In the present petition, petitioner did not submit any documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the Office communication. Therefore, the petition to withdraw the holding of abandonment is **dismissed**.

PETITION UNDER 37 CFR 1.137(b)

In the alternative, petitioner requested that the Office revive the application due to unintentional abandonment. The provisions of 37 CFR 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Accordingly, the petition under 37 CFR 1.137(b) is **granted**.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent and a change of correspondence must be submitted.

This matter is being referred to the Office of Initial Patent Examination.

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

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JUN 16 2006

OFFICE OF PETITIONS

MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

In re Application of :
Gary Karlin Michelson :
Application No. 10/692,545 : ON PETITION
Filed: October 24, 2003 :
Attorney Docket No. 102.0003-05000 :

This is a decision on the petition, filed June 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

P titioner is advised that the issue fee paid on April 18, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3731 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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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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Paper No. _____

Date : June 16, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

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JUN 16 2006

OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Gary Karlin Michelson
Application No. :10/692,545
Filed :October 24, 2003

The above-identified application has been assigned Patent No. 7,063,700 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. 7,063,700 to Gary Karlin Michelson of California for SYSTEM FOR RADIAL BONE DISPLACEMENT 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 19,2007

TO SPE OF : ART UNIT 3773

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/692,545 Patent No.: 7264622 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: _____

_____

_____

_____

_____

SPE

3731
Art Unit

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LAW OFFICE OF ALBERT S. MICHALIK, PLLC
SUITE 193
704-228TH AVENUE NE
SAMMAMISH, WA 98074

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OFFICE OF PETITIONS

In re Application of :
Lucas R. Melton et al :
Application No. 10/692,549 : ON PETITION
Filed: October 23, 2003 :
Attorney Docket No. 4100 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 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 April 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). 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 July 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 of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1050 extension of time submitted with the petition on December 13, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 2166 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
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KLARQUIST SPARKMAN, LLP
Suite 1600
One World Trade Center
121 SW Salmon Street
Portland OR 97204-2988

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DEC 19 2006

OFFICE OF PETITIONS

In re Application of
Court et al
Application No. 10/692,553
Filed: October 23, 2003
Attorney Docket No.4239-66898

Title of Invention: Enhanced Homologous Recombination Mediated by Lambda Recombination Proteins

DECISION DISMISSING PETITION

This is a decision on the paper titled "Petition For Acceptance of a Declaration Signed by Other Than All The Inventors" filed October 18, 2006 and supplemented on December 8, 2006. This petition is properly treated under 37 CFR § 1.183 waiver of § 1.131's requirement that all of the inventors sign the declaration of prior inventorship.[1]

The petition under 37 CFR 1.183 is **Dismissed as Moot**.

The above-identified application was filed on October 23, 2003. Applicants submitted 37 CFR 1.63 declarations on October 23, 2003. A non-final Office action was mailed on February 22, 2006. This office action set a shortened statutory period for reply of three months, with extensions of time obtainable under 37 CFR 1.136(a).

In response, on August 23, 2006 and supplemented on August 28, 2006 (certificate of mailing August 22, 2006), October 18, 2006 and December 8, 2006 , applicants

[1] 37 CFR 1.47 only applies when an inventor refuses to sign the original 37 CFR 1.63 oath or declaration.

submitted a response, including a declaration under 37 CFR 1.131. The 37 CFR 1.131 declaration states that all of the inventors were responsible for reduction to practice of the subject matter of the rejected claims prior to the date of the reference on which the February 13, 2003 rejection was based. The 37 CFR 1.131 declaration presented on October 18, 2006 was signed by all of the inventors except Hillary M. Ellis. However in light of the presentation of an executed declaration of inventor Ellis on December 8, 2006, consideration under 37 CFR 1.183 is no longer required.

The application file is being forwarded to Technology Center 1600 for consideration on the merits of the reply and the 37 CFR 1.131 declaration.

Telephone inquiries concerning this decision 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Brinks Hofer Gilson & Lione
NBC Tower
NBC Tower, Suite 3600
P.O. Box 10395
Chicago, IL 60610

Mail Date: 04/21/2010

Applicant	: Yasuyuki Kawashima	: DECISION ON REQUEST FOR
Patent Number	: 7662631	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/692,554	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **575** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

Brinks Hofer Gilson & Lione
NBC Tower
NBC Tower, Suite 3600
P.O. Box 10395
Chicago, IL 60610

Mail Date: 05/18/2010

Applicant : Yasuyuki Kawashima
Patent Number : 7662631
Issue Date : 02/16/2010
Application No: 10/692,554
Filed : 10/24/2003

: 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 **603** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

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NOV 22 2006
OFFICE OF PETITIONS

In re Application of :
Jeppesen et al. : DECISION ON PETITION
Application No. 10/692,561 :
Filed: October 24, 2003 :
Atty Docket No. 6598.200-US :

This is a decision on the PETITION FOR WITHDRAWAL OF A HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a) filed August 29, 2006.

The petition under § 1.181 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. See 1.181(f).

Alternatively, applicant may seek revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. §1.137(a)" or "Petition under 37 C.F.R. §1.137(b)," as appropriate.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed November 23, 2005. The Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective February 24, 2006. A courtesy Notice of Abandonment was mailed on July 6, 2006.

Applicants petition for the withdrawal of the holding of abandonment on the basis that applicant attempted to send by facsimile transmission a Request for Extension of Time for three

(3) months to permit timely filing of a continuing application. Applicants acknowledge that the facsimile transmission did not complete and send a copy of the facsimile error report.

As stated in 37 CFR 1.6(d) *Facsimile transmission*,

> The receipt date accorded to the correspondence will be the date on which the complete transmission is received in the United States Patent and Trademark Office, unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia. See § 1.6(a)(3).

It is undisputed that in this instance no such transmission (complete or otherwise) of the extension of time as attempted to be filed in the Office on May 23, 2006 was completed. Petitioner's transmission confirmation clearly states "TX FUNCTION WAS NOT COMPLETED" and "PAGES SENT 0." The requirements of 37 CFR 1.6(d) to have the extension of time considered received in the Office on May 23, 2006 were not met. No extension of time is considered filed on May 23, 2006.

It is noted that even if the transmission had been completed the application would still properly be abandoned as the transmission only included an extension of time. Submission of a proper reply to the non-final Office action was required to avoid abandonment of the application. Thus, the issue here really is whether an extension of time should be considered received in the Office on May 23, 2006 such that the continuing application filed May 23, 2006 would have copendency with the instant application. As the extension of time is not considered received May 23, 2006, there is no copendency.

Applicants are not precluded from filing a petition pursuant to 37 CFR 1.137 to revive this application for purposes of continuity with the continuing application.

No fee is required on petition under § 1.181.

Further, as no extension of time may be obtained after the proper abandonment of an application, the extension of time fee submitted on petition was not charged, as authorized. Likewise, payment of an extension of time fee is not required on petition to revive.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

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APR 26 2007

OFFICE OF PETITIONS

In re Application of :
Jeppesen et al. : DECISION ON PETITION
Application No. 10/692,561 :
Filed: October 24, 2003 :
Atty Docket No. 6598.200-US :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed January 9, 2007.

The petition 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 permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(b)."

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed November 23, 2005. The Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective February 24, 2006. A courtesy Notice of Abandonment was mailed on July 6, 2006. By decision mailed November 22, 2006, a prior PETITION FOR WITHDRAWAL OF A HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a) filed August 29, 2006 was

dismissed. Applicants failed to show that a timely and proper response was filed to the Office action.

In response, applicants filed the instant petition. However, although the petition (submitted by facsimile) states that a fee payment is enclosed, no fee payment is among the papers received with the petition. In addition, the record does not include an authorization to charge such a fee to a Deposit Account.

35 U.S.C. 41(a) (7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 C.F.R. § 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 C.F.R. § 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. § 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 C.F.R. § 1.17(l) or 1.17(m), regardless of whether the petition under 37 C.F.R. § 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 C.F.R. § 1.137 lacking the requisite petition fee.

By prior decision, it was determined that withdrawal of the holding of abandonment was not warranted. This decision stands. Thus, the petition fee is required to consider revival. The Office does not have the authority to waive this fee. As payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of an abandoned application and petitioner has not made such a payment, the petition must be dismissed without consideration on the merits under § 1.137.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of :
Jeppesen et al. : DECISION ON PETITION
Application No. 10/692,561 :
Filed: October 24, 2003 :
Atty Docket No. 6598.200-US :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed January 9, 2007.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed November 23, 2005. A courtesy Notice of Abandonment was mailed on July 6, 2006. By decision mailed November 22, 2006, a prior PETITION FOR WITHDRAWAL OF A HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a) filed August 29, 2006 was dismissed. Applicants failed to show that a timely and proper response was filed to the Office action. By decision mailed April 26, 2007, a PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed January 9, 2007 was dismissed. The petition was not considered on the merits because as filed it did not include payment of the petition fee.

On instant request for reconsideration, applicants submitted the petition fee. The petition is now being considered on the merits. The petition includes the required statement of unintentional delay. Petitioner states that the reply is a continuing application. No response to the non-final Office action is being submitted. No terminal disclaimer is required. The requirements for revival for purposes of continuity have been satisfied.

In view thereof, the petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the continuation application (No. 11/439,827), received May 23, 2006.

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 G. NESSLER
P.O. BOX H
CHESTER CT 06412

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JUN 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Kronholm, Conrad J. Jr.	:	
Application No. 10/692,567	:	ON PETITION
Filed: October 24, 2003	:	
Attorney Docket No. 2338	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 18, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a Declaration from the applicant, Conrad Kronholm, Jr. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3715 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 3000
MSC 26-22
SHELTON CT 06484-8000

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MAY 23 2008

OFFICE OF PETITIONS

In re Application of

Auslander, et al.

Application No. 10/692,569

Filed: October 24, 2003

Attorney Docket No. F-736

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed May 7, 2008.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on August 7, 2007, after it was believed that no response was received to the Notice of Non-Compliant Amendment mailed July 6, 2007, which set a shortened period for reply of one (1) month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on March 20, 2008, indicating that a reply was not received.

A review of the record reveals that a Corrected Appeal Brief was received on July 10, 2007, as evidenced by a review of the application file record. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 2800, GAU 2876, for further processing.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/12/2008

TO SPE OF : ART UNIT 2800 (2814)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,385,218

Attn: Long Pham

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

***Ok to enter changes to item (54) Title as req. in cofc?**

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

OK to enter

Wael Fahmy 2814

SPE Art

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P.O. BOX 1450
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MOTOROLA INC
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE, IL 60048-5343

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APR 28 2005

OFFICE OF PETITIONS

In re Application of :
Park, et al. : DECISION REFUSING STATUS
Application No. 10/692,618 : UNDER 37 CFR 1.47(a)
Filed: October 24, 2003 :
Atty. Dkt. No.: CS21560RL :
For: METHOD AND APPARATUS FOR :
BEZIER CURVE APPROXIMATION DATA :
COMPRESSION :

This decision is in response to the petition under 37 CFR 1.47(a), filed March 9, 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 legal representative of the deceased 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 October 24, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed February 4, 2004 requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy item (1). Petitioners indicate that attempts to contact the non-signing inventor via email and telephone on August 27, 2003 were unsuccessful. Petitioners further indicate that a letter and document were sent to the non-signing inventor at the non-signing inventor's last known address and that no response was received.

It is unclear if petitioners are asserting that the non-signing inventor cannot be reached or located for presentation of the application papers or if petitioners are asserting that the non-signing inventor has refused to execute the declaration after having been presented with the application papers.

Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners have not established that diligent effort has been made to locate the non-signing inventor for presentation of the application papers.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, human resource records, telephone directories, and international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. Petitioners have failed to establish that the non-signing inventor received a copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration. Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the

application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioners may wish to provide the Office copies of letters sent to the inventors indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oat or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand:	U.S. Patent and Trademark Office Customer Window Mail Stop Petition Randolph Building Dulany Street Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MOTOROLA INC
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE, IL 60048-5343

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AUG 11 2005

OFFICE OF PETITIONS

In re Application of :
Park, et al. : DECISION REFUSING STATUS
Application No. 10/692,618 : UNDER 37 CFR 1.47(a)
Filed: October 24, 2003 :
Atty. Dkt. No.: CS21560RL :
For: METHOD AND APPARATUS FOR :
BEZIER CURVE APPROXIMATION DATA :
COMPRESSION :

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed June 23, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the legal representative of the deceased 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 October 24, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed February 4, 2004 requiring an executed oath or declaration and a surcharge. A petition under 37 CFR 1.47(a) was filed March 9, 2004 and dismissed April 28, 2005.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy item (1). Petitioners previously indicated that attempts to contact the non-signing inventor via email and telephone on August 27, 2003 were unsuccessful. Petitioners further indicated that a letter and document were sent to the non-signing inventor at the non-signing inventor's last known address and that no response was received. Petitioners state on renewed petition that the application papers were sent to the non-signing inventor at his last known address on September 11, 2003.

Petitioners herein assert that the non-signing inventor "COULD NOT BE LOCATED" for presentation of the application papers. Petitioners have submitted no documentary evidence of efforts made to locate the non-signing inventor.

As stated in the previous decision on petition, where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners have not established that diligent effort has been made to locate the non-signing inventor for presentation of the application papers.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, human resource records, telephone directories, and international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand: U.S. Patent and Trademark Office
Customer Window
Mail Stop Petition
Randolph Building
Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MOTOROLA INC
600 NORTH US HIGHWAY 45
W4 - 39Q
LIBERTYVILLE IL 60048-5343

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OFFICE OF PETITIONS

In re Application of :
Nitya Narasimhan :
Application Number: 10/692623 :
Filing Date: 10/24/2003 : ON PETITION
Attorney Docket Number: :
CS21925RA :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on April 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on September 24, 2008, for failure to timely submit a reply to the non-final Office action mailed on June 23, 2008, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on January 13, 2009.

The present petition is accompanied by an amendment to the claims.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application is referred to Technology Center Art Unit 2622 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: John Kevin McCoy	: DECISION ON REQUEST FOR
Patent Number	: 7666470	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/692,646	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **294** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/692,658	10/23/2003	2837	900	TAW-007	7	8	1

CONFIRMATION NO. 9913

UPDATED FILING RECEIPT

OC000000012400155

00959
LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON, MA 02109

Date Mailed: 04/20/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Masahiro Ohta, Wako-shi, JAPAN;
Toru Sukigara, Wako-shi, JAPAN;

Assignment For Published Patent Application

Honda Motor Co., Ltd., Tokyo, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-308083 10/23/2002

If Required, Foreign Filing License Granted: 02/03/2004

Projected Publication Date: 07/29/2004

Non-Publication Request: No

Early Publication Request: No

Title

Actuator

Preliminary Class
318

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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LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON MA 02109

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MAY 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Ohta et al.	:	DECISION ON
Application No. 10/692,658	:	PETITION
Filed: October 23, 2003	:	
Attorney Docket No. TAW-007	:	

This is a decision on the petition filed April 2, 2004, requesting that the above-identified application be accorded a filing date of October 23, 2003, instead of October 24, 2003.

The United States Patent and Trademark Office records indicate that the presently accorded filing date of the above-identified application is October 23, 2003. Therefore, the petition involves a moot issue.

Accordingly, the petition is dismissed.

Telephone inquiries specific to this matter 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
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WASHINGTON, DC 20231
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APR 25 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

PATENT LAW GROUP, LLP
2635 NORTH FIRST STREET
SUITE 223
SAN JOSE, CA 95134

In re Application of
Junxing Shen *et al.*
Serial No.: 10/692,666
Filed: October 24, 2003
For: COLOR CORRECTION FOR IMAGES FORMING A PANORAMIC IMAGES

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.84(a)(2) filed October 24, 2003 requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 8, 9, and 10 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RAYMOND Y CHAN
108 N. YNEZ AVENUE
SUITE 128
MONTEREY PARK, CA 91754

COPY MAILED

FEB 24 2006

OFFICE OF PETITIONS

In re Application of :
Chia-Hsin Chen :
Application No. 10/692,683 :
Filed: October 27, 2003 :
Attorney Docket No. 2450-0577P :

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 2, 2006 and resubmitted on January 9, 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 the petition is not signed by a person authorized to sign under 37 CFR 1.36(b). Additionally, no reasons for the request have been provided.

All future communications from the Office will continueto be directed to the above-listed address until otherwise notified by applicants.

This matter is being referred to Publishing Division.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAMES T. ROBINSON
222 E. MAIN STREET
NORMAN, OK 73069

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MAY 18 2006
OFFICE OF PETITIONS

In re Application of LeRoy :
Application No. 10/692,701 : Decision on Petition
Filing Date: October 24, 2003 :
Attorney Docket No. STO101 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 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 April 27, 2004. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned on July 28, 2004. A Notice of Abandonment was mailed on March 15, 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.

Payment for an extension of time is unnecessary when filing a petition to revive. Therefore, the Office will schedule a refund of the $510 submitted for a three month extension of time.

Technology Center Art Unit 3651 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

OIPE MAR 15 2006 PATENT & TRADEMARK OFFICE

PTO/SB/22 (12-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARMENT 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 EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2005 *(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)*	Docket Number (Optional) ST0101
Application Number 10/692,701	Filed October 29, 2003
For Livestock Loading Chute	
Art Unit 3651	Examiner Bidwell, James R.

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

	Fee	Small Entity Fee	
☐ One month (37 CFR 1.17(a)(1))	$120	$60	$
☐ Two months (37 CFR 1.17(a)(2))	$450	$225	$
☑ Three months (37 CFR 1.17(a)(3))	$1020	$510	$ 510.00
☐ Four months (37 CFR 1.17(a)(4))	$1590	$795	$
☐ Five months (37 CFR 1.17(a)(5))	$2160	$1080	$

☑ Applicant claims small entity status. See 37 CFR 1.27.

☑ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number _____. I have enclosed a duplicate copy of this sheet.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☑ attorney or agent of record. Registration Number 33,548

☐ attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

James T. Robinson — Signature

March 15, 2006 — Date

James T. Robinson — Typed or printed name

(405) 292-1911 — Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.136(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 6 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.

Refund Ref:
05/18/2006 CKHLOK 0000151814

CHECK Refund Total: $510.00

03/17/2006 TBESHAH1 00000011 10692701
02 FC:2253 510.00 OP

Adjustment date: 05/18/2006 CKHLOK
03/17/2006 TBESHAH1 00000011 10692701
02 FC:2253 -510.00 OP

1. **PETITION FEE**

Code 2253; Extension for reply within third month (small entity)	**$ 510.00**
Code 2453; Petition to revive - unintentional (small entity)	**$ 750.00**
Total:	**$ 1,260.00**

2. **TERMINAL DISCLAIMER WITH DISCLAIMER FEE**

Since this utility application was filed on or after June 8, 1995, no terminal disclaimer is required.

3. **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.

4. **ADDITIONAL DOCUMENTS TRANSMITTED HEREWITH**

Enclosed herewith are the following additional documents:

- Check No. 3081 in the amount of $1,260.00.
- PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(A) (1 page).
- RESPONSE AND AMENDMENT (6 pages).
- CLAIMS AFTER AMENDMENT (8 pages).
- PATENT APPLICATION FEE DETERMINATION RECORD.
- Receipt verification post card.

5. **REFUND**

Please refund any overpayment to applicant's attorney.

Respectfully submitted,

Date: March 15, 2006

James T. Robinson, Reg. No. 33,548
Exclusivity-Law, Inc., Cust. No. 54102
222 East Main
Norman, OK 73069
Telephone 405.292.1911
Facsimile 405.321.1104
Email james.robinson@askeli.info

ATTORNEY FOR APPLICANT

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Wood, Phillips, Katz, Clark & Mortimer
500 West Madison St., Ste. 3800
Chicago, Illinois 60661-2511

PROCESSED BY
PG PUB DIVISION

JAN 28 2005

Applicant: Joseph M. Koenig
Appl. No.: 10/692,703
Filing Date: October 24, 2003
Title: SANDING BLOCK
Attorney Docket No.: TR1456P0161US
Pub. No.: US 2004/0092219 A1
Pub. Date: May 13, 2004

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on June 15, 2004 for the above-identified application.

The request is DISMISSED.

Applicant request that the application be republished because the patent application publication contains a material error, as application published with the wrong drawings, as it include figures of a sanding block from a prior art reference.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The error is not a material mistake because the application is a Continuation of U.S. Application 10/158,608 filed May 30, 2002, now U.S. Patent Application Publication 2003/0224708. Since, the parent application is published and contains the information printed correctly, the errors do 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. The error also does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the earlier publication has the best date as a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of July 31, 2004.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct 10, 2000) (final rule).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 703-305-8568

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice)

Shelly Littman, for

Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/692,704	10/24/2003	Brian B. Jones	040092-027510US	9806

31824 7590 08/31/2004

MCDERMOTT WILL & EMERY LLP
18191 VON KARMAN AVE.
IRVINE, CA 92612-7107

EXAMINER	
ART UNIT	PAPER NUMBER
2877	

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 072804

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

AUG 27 2004

In re Application of:
BRIAN B. JONES
Serial No.: 10/692,704
Filed: October 24, 2003
Attorney Docket No.: **040092-027510US**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 18, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of McDermott, Will & Emery was filed on April 6, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: MARK J. ITRI
MCDERMOTT, WILL & EMERY
18191 VON KARMAN AVE., SUITE 400
IRVINE, CA 92612-0187

UNITED STATES PATENT AND TRADEMARK OFFICE

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WONG, CABELLO, LUTSCH, RUTHERFOR
& BRUCCULER L.L.P
20333 SH 249
SUITE 600
HOUSTON, TX 77070

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MAY 13 2008

OFFICE OF PETITIONS

In re Application of :

CHINN, Kenny K. et al. :
Application No. 10/692,707 : DECISION ON PETITION
Filed: October 24, 2003 : TO WITHDRAW
Attorney Docket No. **AB-123U1 / 585-0026US-C** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 11, 2008.

The request is **NOT APPROVED**.

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, (ownership transfer), does not meet any the conditions set forth in 37 CFR 10.40.

A review of the file record indicates that Bryant R. Gold and Laura H. Bishop 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

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BRYANT R. GOLD**
25129 RYE CANYON LOOP
VALENCIA, CA 91355

cc: **FISH & RICHARDSON P.C.**
225 FRANKLIN STREET
BOSTON, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

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WONG, CABELLO, LUTSCH, RUTHERFOR
& BRUCCULER L.L.P
20333 SH 249
SUITE 600
HOUSTON, TX 77070

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SEP 02 2008

In re Application of :

CHINN, Kenny K. et al. :
Application No. 10/692,707 : DECISION ON PETITION
Filed: October 24, 2003 : TO WITHDRAW
Attorney Docket No. **AB-123U1 / 585-0026US-C** : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 06, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **(ownership transfer)**, does not meet any the conditions set forth in 37 CFR 10.40.

A review of the file record indicates that Timothy French does 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

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **FISH & RICHARDSON P.C.**
225 FRANKLIN STREET
BOSTON, MA 02110

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PORTLAND ME 04112-8707

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APR 2 7 2004

OFFICE OF PETITIONS

In re Application of
Mark E. Armstrong
Application No. 10/692,710
Filed: October 24, 2003
Attorney Docket No. 03-090

DECISION ON
PETITION

This is a decision on the paper filed April 7, 2004 and styled "Petition for Original Filing Date", which is treated under 37 CFR 1.182.

Application papers in the above-identified application were filed on October 23, 2003. However, on April 2, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant that the application had not been accorded a filing date because a complete specification as prescribed by 35 U.S.C. 112 was missing and that the application was deposited without drawings.

In response to the Notice mailed April 2, 2004, petitioner properly proffered a copy of a date stamped return receipt which corroborated petitioners assertion that the application had been filed with an eleven (11) page specification, (at least one claim was included in the proffered specification) and three sheets of drawings.

Copies of the complete application papers filed on October 24, 2003 were filed with the petition, which included a complete specification (eleven pages) and drawings (three sheets) thus satisfying the requirements as set out in the Notice mailed April 2, 2004 and thus completing the application.

In view of the foregoing, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee will be refunded to deposit account 50-1517 as requested.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of October 23, 2003, using the application papers received in the Office on that date and the specification (11 pages) and drawings (3 sheets) resubmitted on petition. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball

Senior Petitions Attorney

Office of Petitions

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OFFICE OF PETITIONS

WILMERHALE/NITROMED
1875 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20006

In re Application of
Joseph Loscalzo, et al.
Application No. 10/692,724
Filed: October 27, 2003
Attorney Docket No. 102258.170 US3

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 25, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the Application Data Sheet (ADS) filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is applicable to applications filed on or after November 29, 2000 and is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Further, a 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 petition does not comply with item (1) above. In this regard, petitioner did not submit an executed Application Data Sheet or an amendment that includes a proper reference under 37 CFR 1.78(a)(2)(i). It is noted that petitioner indicates that an amendment is being filed; however, no amendment was found among the papers filed March 25, 2008.

Before the petition can be granted, petitioner must submit a properly signed ADS or an amendment to the first sentence of the specification following the title to include a proper reference under 37 CFR 1.78(a)(2)(i), along with a renewed petition under 37 CFR 1.78(a)(6).

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

24 FEB 2009

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WILMERHALE/NITROMED
1875 PENNSYLVANIA AVE, NW
WASHINGTON DC 20006

In re Application of:
LOSCALZO, Joseph, et al.
U.S. Application No.: 10/692,724
Filing Date: October 27, 2003
Atty Docket No.: 102258-170 US3
For: METHODS OF TREATING VASCULAR DISEASES CHARACTERIZED BY NITRIC OXIDE INSUFFICIENCY

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the "Renewed Petition Under 37 CFR 1.78" filed August 13, 2008. The petition seeks acceptance of an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of two prior-filed U.S. non-provisional application and two international applications designating the United States identified in the concurrently filed amendment and Supplemental Application Data Sheet (ADS). Applicant has previously paid the required petition fee.[1]

The petition is **DISMISSED**.

37 CFR 1.78(a)(3) applies where an applicant seeks to add a late claim of benefit under 35 U.S.C. 120 and 365(c) to a prior-filed non-provisional or international application designating the United States. Applicant here is seeking to add priority claims to two non-provisional applications (U.S. applications 10/687,706 and 10/415,136) and two international applications (PCT/US01/14245 and PCT/US00/29582). Accordingly, the present petition is properly considered under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii).

The present non-provisional 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). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

[1] It is noted that the renewed petition was accompanied by an additional petition fee. This second petition fee is not required and will be refunded to Deposit Account No. 08-0219.

A 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 where there is a question whether the delay was unintentional.

The present petition fails to comply with item (1) above.

The amendment (and supplemental ADS) filed with the present petition fail to properly indicate the relationship between the two international applications. Specifically, the amendment and ADS indicate that PCT/US01/14245 "claims priority to" PCT/US00/29528. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part. See MPEP 201.11(III)(A):

> Except for benefit claims to the prior application in a continued prosecution application (CPA), benefit claims under 35 U.S.C. 120, 121, and 365(c) must identify the prior application by application number, or by international application number and international filing date, and indicate the relationship between the applications. See 37 CFR 1.78(a)(2)(i). The relationship between the applications is whether the instant application is a continuation, divisional, or continuation-in-part of the prior nonprovisional application. An example of a proper benefit claim is "this application is a continuation of prior Application No. ---, filed ---." A benefit claim that merely states that "this application claims the benefit of Application No. ---, filed ---" does not comply with 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i), since the relationship between the applications is not stated.

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[1] or supplemental ADS (37 CFR 1.76) which properly sets forth the relationship of the prior-filed application(s) is required.

In addition, it is noted that another intermediate application herein fails to include the proper benefit claim. Specifically, the present application identifies U.S. application 10/679,257 as a "continuation" of U.S. application 09/697,317; however, U.S. application 10/679,257 is a "divisional" of 09/697,317, not a "continuation." Accordingly, any revised amendment and/or supplemental ADS submitted by applicant herein should also correct this discrepancy.

Finally, it is noted that the "Foreign Priority Information" listed in the supplemental ADS is incorrect. Specifically, it is not proper to claim foreign priority to a domestic application (i.e., 10/415,136). Furthermore, the present application cannot claim foreign priority to

---

[1] *Note* 37 CFR 1.121

PCT/US01/14245, which was filed more than 12 months prior to the filing date of the present application. The ADS should be corrected accordingly.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PCT
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop PCT
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0459
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Richard M. Ross at (571) 272-3296.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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WASHINGTON DC 20006

In re Application of:	
LOSCALZO, Joseph, et al.	DECISION ON RENEWED
U.S. Application No.: 10/692,724	PETITION UNDER
Filing Date: October 27, 2003	37 CFR 1.78(a)(3)
Atty Docket No.: 102258-170 US3	
For: METHODS OF TREATING VASCULAR DISEASES CHARACTERIZED BY NITRIC OXIDE INSUFFICIENCY	

In decisions mailed by this Office on July 22, 2008 and February 23, 2009, applicants' previous petitions under 37 CFR 1.78(a)(3) were dismissed for failure to satisfy all the requirements of a grantable petition. Specifically, the amendments and application data sheets (ADS) submitted with the previous petitions did not contain acceptable references with respect to the prior-filed non-provisional and international applications.

On March 13, 2009, applicants filed the "Second Renewed Petition To Accept Unintentionally Delayed Priority Claim Under 37 CFR 1.78" considered herein. The renewed petition was accompanied by an "Amendment Under 37 CFR 1.312" and a supplemental ADS that includes acceptable references identifying the present application as a "continuation of U.S. Application No. 10/687,706 filed October 20, 2003, which is a continuation of U.S. Application No. 10/415,136 filed April 25, 2003, which is a 371 of PCT/US01/14245 filed May 2, 2001 which is a continuation-in-part of PCT/US00/29528 filed October 27, 2000, which claims priority to U.S Provisional Application No. 60/179,020 filed January 31, 2000, and U.S. Provisional Application No. 60/162,230 filed October 29, 1999."[1] The submission also corrects an additional priority claim in the application to identify the present application as a "continuation-in-part of U.S. Application No. 10/679,257, filed October 7, 2003, which is a divisional of U.S. Application No. 09/697, 317, filed October 27, 2000."[2] Thus, applicants have now satisfied the final requirements for a grantable petition.

Having found that the renewed petition, in combination with the previous petitions, satisfies all the conditions of 37 CFR 1.78(a)(3), the petition is appropriately **GRANTED**.

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[1] It is noted that the present application already includes effective benefit claims directed to these two provisional applications via a separate chain of priority.

[2] U.S. Application No. 10/679,257 was previously incorrectly identified as a continuation of U.S. Application No. 09/697,317.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should <u>not</u> be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed non-provisional and international applications. In order for this application to be entitled to the benefit of the prior filed international 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 Filing Receipt accompanying this decision on petition will include the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the additional priority claims added through the present petition, is attached hereto.

Any questions concerning this decision may be directed to Richard M. Ross at (571) 272-3296. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

Encl: Corrected Filing Receipt

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MAR 29 2010

OFFICE OF PETITIONS

In re Application of :
Loscalzo et al. :
Application No. 10/692,724 : ON APPLICATION FOR
Filed: October 27, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 102258.170 US3 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702-1.705" filed September 23, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least one thousand three hundred eighty (1,380) days, not six hundred eleven (611) 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). 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 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).

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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.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Anthony Knight
Supervisor
Office of Petitions

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ROCKVILLE MD 20850

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OFFICE OF PETITIONS

In re Application of
Ni et al.
Application No. 10/692,730
Filed: October 27, 2003
For: T1 RECEPTOR-LIKE LIGAND II
Attorney Docket No: PF293D2
Pub. No.: US 2004/0146501 A1
Pub. Date: July 29, 2004

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on September 21, 2004 for the above-identified application.

The request is DISMISSED.

Applicant request that the application be republished because the patent application publication contains a material error, as the sequence listing filed with the application is not in the publication itself or in the PSIPS database.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The errors are not material mistakes because the application is a Divisional of U.S. Application Nos. 09/317,641 and 08/916,442, both of which are now patented. Since, the parent applications are now patented and contains the information printed correctly, the errors do 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. The error also

[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).

does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the patent has the best date as a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of July 31, 2004.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of this 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 Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

HUMAN GENOME SCIENCES INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

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In re Patent No. 7,495,084	:	DECISION ON REQUEST
Ni et al.	:	FOR
Issue Date: February 24, 2009	:	RECONSIDERATION OF
Application No. 10/692,730	:	PATENT TERM ADJUSTMENT
Filed: October 27, 2003	:	and
Atty Docket No. PF293D2	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 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 one hundred sixty-eight (1168) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicated that the term of the above-identified patent is extended or adjusted by one thousand one hundred sixty-eight (1168) days is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred sixty-eight (1168)** 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 : 7,495,084

DATED : **February 24, 2009** **DRAFT**

INVENTOR(S) : Ni et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby
corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 611 days

Delete the phrase "by 611 days" and insert – by 1168 days--

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OFFICE OF PETITIONS

Oblon, Spivak, McClelland, Maier, & Neustadt P.C.
1940 Duke Street
Alexandria, Virginia 22314

In re Application of :
Ohsumi et al. :
Application No. 10/692,738 : DECISION DISMISS PETITION
Patent No. 6,908,905 :
Filed: October 27, 2003 :
Attorney Docket No. 244118USOC0NT

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT under (37 CFR 1.705(d)) " filed on August 22, 2005 requesting that the Office adjust the PTA determination at the time of the mailing of the notice of issuance from a determination of 62 days to a determination of ninety-four (94) days.

Applicants application for PTA is **DISMISSED.** Applicants are given **thirty** days to respond to this decision. No extensions of time will be granted under 37 CFR 1.136. Any response should be directed to Mail Stop Petitions.

Applicants assert that the Office erred in assessing a forty-eight day reduction under 37 CFR 1.704(c)(10) for the submission of a European Search report as "an other paper" within the context of 37 CFR 1.704(c)(10). In addition, applicants further assert that their filing should be considered within the safe harbor of 37 CFR 1.704(d).

A review of the file reflects that applicants' arguments are not persuasive. Contrary, to applicants assertion that the submission of the European search report would not be considered a failure to engage in reasonable to conclude prosecution of the application, the submission of such disclosure is considered a failure to engage in reasonable efforts to conclude processing and examination of the application under 37 CFR 1.704(c)(10). It is clear from rule 37 CFR 1.704(d) that the disclosure would be considered a failure to engage under 37 CFR 1.704(c)(10). Accordingly, the IDS was not enumerated in 1247 OG 111 notice cited by applicants. Note that 1.704(d) which provides a safe harbor for IDS submission expressly notes that an IDS is a reduction under 37 CFR 1.704(c)(10) UNLESS there is a specific statement meeting all of the language of 1.704(d).

Applicants have not met the required statement. 37 CFR 1.704(d) requires the following statement:

(d) A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the

information disclosure statement. This thirty-day period is not extendable.

Applicants applying for such exception must mirror the language in the rule to meet this qualification. Moreover, applicants should consider who is a party within the meaning of 37 CFR 1.56(c) for PTA purposes. See questions and answers related to PTA posted on the following weblink; **http://www.uspto.gov/web/offices/dcom/olia/aipa/ptafaq.htm**

After mailing, this application will be held by the Office of Patent Legal Administration to wait for any response by applicant.

The Office has assessed the $200.00 fee. No additional fees are required in this deciding this application.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy, at 571-272-7757.

Kery A. Fries

Kery Fries
Senior Legal
Office of Patent Legal Administration
Office of Deputy Commissioner
For Patent Examination Policy

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Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

NOV 1 2005

In re Application of:
SUZUKI *et al.*
Serial No.: 10/692,750
Filed: October 27, 2003
U.S. Patent No. 6,821,131
Issued: November 23, 2004
Attorney Docket No. **4208.0192**

DECISION RETURNING
PRIOR ART CITED UNDER
35 U.S.C. § 301

The prior art citation under 35 U.S.C. § 301 and 37 C.F.R. § 1.501, filed by the patent owner on July 29, 2005, is before the Group Director of Examining Group 2800 for consideration.

STATUTES, REGULATIONS AND PRACTICE

35 U.S.C. § 301 reads as follows:

> Any person at any time may cite to the Office in writing prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent. If the person explains in writing the pertinency and manner of applying such prior art to at least one claim of the patent, the citation of such prior art and the explanation thereof will become a part of the official file of the patent. At the written request of the person citing the prior art, his or her identity will be excluded from the patent file and kept confidential. (Emphasis added.)

37 C.F.R. § 1.501 reads, in pertinent part:

> (a) At any time during the period of enforceability of a patent, any person may cite to the Patent and Trademark Office in writing prior art consisting of patents or printed publications which that person states to be pertinent and applicable to the patent and believes to have a bearing on the patentability of any claim of a

particular patent. If the citation is made by the patent owner, the explanation of pertinency and applicability may include an explanation of how the claims differ from the prior art. (Emphasis added.)

Section 2205 of the Manual for Patent Examining Procedure (M.P.E.P.) reads, in pertinent part:

> The prior art which may be submitted under 35 U.S.C. 301 is limited to "written prior art consisting of patents or printed publications."
>
> An explanation is required of how the person submitting the prior art considers it to be pertinent and applicable to the patent, as well as an explanation of why it is believed that the prior art has a bearing on the patentability of any claim of the patent. Citations of prior art by patent owners may also include an explanation of how the claims of the patent differ from the prior art cited. . . .
>
> A prior art citation is limited to the citation of patents and printed publications and an explanation of the pertinency and applicability of the patents and printed publications. This may include an explanation by the patent owner as to how the claims differ from the prior art. (Emphasis added.)

Section 2206, II, B of the M.P.E.P. reads in pertinent part:

> If an improper prior art citation under 37 C.F.R. 1.501 is filed by the patent owner prior to an order for reexamination, it should not be entered in the file. The patent owner should be notified of the nonentry, and the citation papers should be returned to the patent owner along with the notification.

DECISION

The citation of prior art lacks an explanation of the pertinency and the manner of applying the cited prior art to at least one claim of the patent. Accordingly, the citation of prior art filed July 29, 2005 does not meet the requirements for entry into the patent file. The citation is being returned to the patent owner pursuant to M.P.E.P. § 2206, II, B.

This decision is made of record in the patent file.

Richard K. Seidel, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Enclosure: Citation of prior art filed July 29, 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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UNITED STATES DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVENUE, S.W.
ATTN: GC-62 (ORO), MS 6F-067
WASHINGTON, DC 20585-0162

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Rusi P. Taleyarkhan et al :
Application No. 10/692,755 : ON PETITION
Filed: October 27, 2003 :
Attorney Docket No. S-96,722 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 27, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 28, 2005.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The person signing the instant petition also requests a change of correspondence address to the address given in the instant petition. There is, however, no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3663 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Akerman Senterfitt
P.O. Box 3188
West Palm Beach, FL 33402-3188

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DR. ARJUNA I. RAJASINGHAM
MMILLENNIUMM ENERGY CORP.
P.O. BOX 34512
BETHESDA MD 20827

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JAN 04 2010

In re Application of	:	
Taleyarkhan et al.	:	
Application No. 10/692,755	:	ON PETITION
Filed: October 27, 2003	:	
Attorney Docket No. 9750-1	:	

This is a decision on the petition, filed November 7, 2009, 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 **DISMISSED**.

This application was held abandoned for failure to timely respond to the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) of April 1, 2009, which set a one (1) month shortened statutory period for reply. Accordingly, a reply was due on or before May 1, 2009.

Petitioner states that a timely reply was received by the USPTO on April 13, 2009, specifically an Amendment to Appeal Brief. Petitioner has submitted a copy of the previously mailed correspondence, along with a copy of the Certified Mail Return Receipt.

The file record does not include the originally submitted papers. 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 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 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 CFR 1.8). 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).

The Certified Mail Return Receipt also does not itemize all of the components that were submitted, rendering it impossible to know what was received by the USPTO. Therefore, as stated above, it will not serve as evidence that the Amendment to Appeal Brief was received by the USPTO. Further, the duplicate response filed concurrently with the instant petition does not contain a Certificate of Mailing. A Certificate of Mailing must be placed on each document for it to be proper.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 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 was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/10/07

Paper No.: ____

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/692759 Patent No.: 7173281 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE — 2814 Art Unit

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Paper No. None

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14910 AIRLINE ROAD
ROSHARON TX 77583

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MAR 21 2006

OFFICE OF PETITIONS

In re Application of :
Kenneth R. Goodman :
Application No. 10/692,775 : DECISION ON PETIITON
Filed: October 24, 2003 : UNDER 37 C.F.R. §1.137(b)
Attorney Docket No. 22.1521 :
Title: DOWNHOLE TOOL CONTROLLER :
USING AUTOCORRELATION OF :
COMMAND SEQUENCES :

This is a decision on the petition filed December 20, 2005, 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 2, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of

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.

time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 3, 2005. A notice of abandonment was mailed on December 12, 2005.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, this petition under 37 C.F.R. §1.137(b) is **GRANTED**.

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.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[2]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such

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2 See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

inquiry results in the discovery that the delay was intentional, petitioner must notify the Office.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: HU, DAN
Trop Pruner & Hu, PC
8554 Katy Freeway, Suite 100
Houston, TX 77024

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20040125

DATE : February 10, 2006

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 6,951,852

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: James O. Wilson **Art Unit** 1624

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,779	10/24/2003	Scott E. Dart	14917.0677USI1	8962

27488 7590 06/11/2008
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
FORD, GRANT M	

ART UNIT	PAPER NUMBER
2141	

MAIL DATE	DELIVERY MODE
06/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Rene A. Pereyra
Merchant & Gould (Microsoft)
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of:
Jeffrey PARHAM
Application No.: 10/692,779
Filed: October 24, 2003
For: SYSTEMS AND METHODS FOR THE IMPLEMENTATION OF A DIGITAL IMAGES SCHEMA FOR ORGANIZING UNITS OF INFORMATION MANAGEABLE BY A HARDWARE/SOFTWARE INTERFACE SYSTEM

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 23 January 2008, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on 23 January 2008 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on 23 January 2008 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be expunged from the application and may be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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OFFICE OF PETITIONS

In re Application :
Boschetti :
Application No. 10/692,785 : PATENT TERM ADJUSTMENT
Filed: October 27, 2003 :
Dkt. No.: 9676-314-999 :

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed December 29, 2008.

Applicants submit that the correct patent term adjustment to be indicated on the patent is 387 days, not zero days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and also on the basis that the total applicant delay is 165.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two

months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Applicant acknowledges an applicant delay 165 days. The reduction of 165 days is reflected in the determination of patent term adjustment. However, the adjustment is further reduction 33 days in accordance with 37 CFR 1.704(b) in connection with the response to non-final Office action filed May 27, 2008. The reduction commenced April 25, 2008, the day after the date that is three months after the date that the non-final Office action was mailed, and ended May 27, 2008, the date that the reply thereto was filed.

In view thereof, as of the time of allowance, the application is entitled to an overall adjustment of zero days, as reflected in the determination of patent term adjustment (adjustment of 184 days less reductions of 198 days).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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.

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JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

Mail Date: 04/21/2010

Applicant	: Egisto Boschetti	: DECISION ON REQUEST FOR
Patent Number	: 7591993	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/692,785	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **380** 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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JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

Mail Date: 05/18/2010

Applicant : Egisto Boschetti
Patent Number : 7591993
Issue Date : 09/22/2009
Application No: 10/692,785
Filed : 10/27/2003

: 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 **475** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/15/09

TO SPE OF : ART UNIT 2181

SUBJECT : Request for Certificate of Correction for Appl. No 10/692,800 o.: 7,81090

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)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Ok to enter ... ~~it~~ Amendment does not change the scope or meaning of the claims

[signature] 2181
SPE **Art Unit**

PTO/SB/ 44 (08-00)
Approved for use through 09/30/2000. 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 : 7,581,090

DATED : August 25, 2009

INVENTOR(S) : Hideo MIYAKE et al.

First Page, Column 1, under
"(65) **Prior Publication Data**

US 2004/0088462 A1 May 6, 2004" insert
--(30) **Foreign Application Priority Data**

Oct. 29, 1999 (JP) 11-309598
Nov. 30, 1999 (JP) 11-341077

Related U.S. Application Data

(62) Division of Application 09/678,732, filed on
Oct. 4, 2000, now Pat. No. 6,681,280--.

Column 64, Line 56, change "break- interrupt" to --break-interrupt--.

Column 65, Line 27, change "handier," to --handler,--.

Column 65, Line 28, change "word said" to --word as said--.

Column 65, Line 35, change "handier," to --handler,--.

Column 65, Line 42, change "handier," to --handler,--.

Column 65, Line 56, change "handier," to --handler,--.

Column 66, Line 6, change "handier," to --handler,--.

MAILING ADDRESS OF SENDER:
STAAS & HALSEY LLP
1201 New York Ave., N.W.
7th Floor
Washington, DC 20005

PATENT NO. 7,581,090

No. of add'l copies
@ 50¢ per page

⇒

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www.uspto.gov

STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, NW
WASHINGTON, DC 20005

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DEC 0 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Daniel N. Galburt	:	
Application No. 10/692,822	:	DECISION GRANTING PETITION
Filed: October 27, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1857.1550001	:	

This is a decision on the petition, filed December 1, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 5, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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THEMI ANAGNOS
1155 ROSE
LAKE ZURICH IL 60047

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JUL 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Dickinson et al.	:	
Application No. 10/692,828	:	ON PETITION
Filed: October 24, 2003	:	
Attorney Docket No. TE9A; P025A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
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

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: William B. Greenwald	: DECISION ON REQUEST FOR
Patent Number	: 7604307	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/692,839	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1153** 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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05192004

Keady Ciccozzi & Olds PLLC
P.O. Box 220472
Chantilly, VA 20153-0472

In re Application of:
Nathan P. Monty
Serial No.: 10/692,860
Filed: October 27, 2003
For: WAVEGUIDE LASER

DECISION ON PETION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed October 27, 2003, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item V: Environment.

A grantable petition to make an application special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section V, for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements - air water and soil, must be accompanied by affidavits or declarations under 37 C.F.R. § 1.102 by the applicant or his/her attorney or agent explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

A statement by Gary D. Yacura, a registered attorney, indicates that the claimed invention is related to the industrial printing, etching and marking industry. The invention uses laser instead of ink and paint historically used as primary means of labeling products and every year about two billion pounds of ink, mostly petroleum based, are used by the industry. It is stated that the "Exemplary embodiments of the present invention vastly improve and simplify the existing costly methodology for manufacturing lasers for the printing industry. Thus having extremely positive impact on the environment by allowing the printing industry to have a cost effective and environmentally clean alternative for their printing applications." The showing that the application materially enhances the quality of the environment of mankind is inadequate to qualify the application for special status because, even though the invention has some positive impact on the environment, it does not rise to the level intended by the rule. Specifically, it is apparent that laser printing causes less harm to the environment than ink and paint printing in term of the consumption of ink, paint and related cleaning solutions. The

petition emphasizes that the claimed invention(s) results in lowering the cost of manufacturing lasers for the printing industry without supporting evidence. Further, there is no evidence to suggest that the claim invention(s) allows the printing industry to have a cost effective and environmentally clean alternative for their printing applications that are different from and better than the laser printers already in use. As such, the petition does not include adequate showing to establish that the invention(s) contributes to the maintenance or restoration of the environment.

For the above stated reasons, the petition is DENIED.

Should applicant desire reconsideration of this decision, he/she should supplement this petition with evidence to support the assertion that the claimed invention(s) contributes to the maintenance or restoration of one of the life sustaining elements.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
PO BOX 7599
LOVELAND, CO 80537-0599

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JUL 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Yeo :
Application No. 10/692,867 : ON PETITION
Filed: October 23, 2003 :
Attorney Docket No. 70021123-1 :

This decision concerns the May 10, 2004 petition under 37 CFR 1.47(b).

The petition is **DISMISSED.**

The application was filed with an unsigned declaration. On January 23, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, setting forth an extendable 2-month non-statutory reply period. The instant petition then followed, accompanied by a request for a 2-month extension of time and an authorization to charge the $420 extension-of-time fee to Deposit Account No. 50-1078.

The petition asserts that the sole inventor, Chiau Woon Yeo ("Yeo"), refuses to sign the application papers and requests that Yeo's former employer Agilent Technologies, Inc. ("Agilent Technologies") be allowed to file the application on behalf of, and as agent for, Yeo.

Under 37 CFR 1.47(b), Agilent Technologies may do so, provided that:

(1) Agilent Technologies has a demonstrated proprietary interest in the instant claimed invention;[1]

(2) If item (1) is met, the oath/declaration is properly executed by an officer of Agilent Technologies, or one specifically authorized by Agilent Technologies to sign the oath/declaration on its behalf;

---

[1] MPEP 409.03(f) (Rev. 2, May 2004).

(3) The petition includes a statement of facts by those with firsthand knowledge of the facts recited therein, establishing that Yeo refused to sign the application oath/ declaration despite the *bona fide* attempt made to present to him a copy of the entire application (specification including claims; drawings);[2]

(4) The petition includes a statement that a filing date for the application is necessary to preserve the rights of the parties or to prevent irreparable damage;[3]

(5) The petition includes Yeo's last known address;[4] and

(6) The petition includes the petition fee set forth in 37 CFR 1.17(h) (currently $130).

The requirements in items (2)-(6) are considered met.

As discussed below, the petition lacks item (1).

To establish Agilent Technologies's proprietary interest in this application, the petition encloses a copy of Agilent Technologies's "Invention Disclosure" form signed by Yeo in 2002. The invention is identified in this form as "Absolute encoding using less photodiode/codewheel tracks" which appears similar to the invention claimed in the instant application. This form contains a "Contractual aspects" component, requesting provision of information if the invention was not made by Yeo in the course of his employment by Agilent Technologies. This component was left blank.

While the Invention Disclosure form may indicate that Yeo conceived or reduced to practice the instant claimed invention during his employment by Agilent Technologies, this form, without more,[5] is inadequate for establishing that Yeo has assigned, or agreed to assign, his entire rights in the instant claimed invention to Agilent Technologies, or that Agilent Technologies otherwise has sufficient proprietary interest in this invention to justify its filing of this application.[6]

---

[2] MPEP 409.03(d) (Rev. 2, May 2004).

[3] MPEP 409.03(g) (Rev. 2, May 2004).

[4] MPEP 409.03(e) (Rev. 2, May 2004).

[5] E.g., an employment contract signed by Yeo agreeing to assign, to Agilent Technologies, the entire rights of all inventions made by him while employed by Agilent Technologies.

[6] E.g., an appropriate legal memorandum to the effect that a court of competent jurisdiction (Federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to Sterling . . . The facts in support . . . should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. See MPEP 409.03(f) (Rev. 2, May 2004).

In view of the above, the Office is unable to conclude that the requirement of item (1) is met. The petition is thus dismissed.

As authorized in the petition, the $130 petition fee and the $130 surcharge for lacking an acceptable oath/declaration upon filing of the application have been charged to Deposit Account No. 50-1078.

A renewed §1.47(b) petition (no fee) must be filed within **TWO MONTHS** of the mailing date of this decision,[7] and be accompanied by an oath/declaration properly signed by Yeo, or, sufficient evidence that Agilent Technologies owns the entire interest in the instant claimed invention or otherwise has sufficient proprietary interest in the invention to justify its filing of this application.

The renewed petition(s) should be addressed to:

Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

[7] Extensions of time under 37 CFR 1.136(a) are permitted.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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KENNETH J. COLLIER
MEDTRONIC INC
710 MEDTRONIC PARKWAY N.E.
MINNEAPOLIS, MN 55432

COPY MAILED

MAY 20 2005

OFFICE OF PETITIONS

In re Application of :
Orhan Soykan et al :
Application No. 10/692,878 : ON PETITION
Filed: October 24, 2003 :
Attorney Docket No. P-7835.09 Continuation 2 :

This is a decision on the petition under 37 CFR 1.173(b), filed April 18, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 20, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 21, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 20, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3747.

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
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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE, WI 53202-4497

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SEP 30 2005

OFFICE OF PETITIONS

In re Application of :
Mary Lynne P. Collins, et al. :
Application No.: 10/692,889 : ON PETITION
Filed: October 24, 2003 :
Attorney Docket No. 961094.00002 :

This is a decision on the petition under 37 CFR 1.182, filed September 21, 2005, to correct the designation of the first inventor's name.

The petition is GRANTED.

USPTO records will be corrected as follows:

> The inventor's name will be changed from " Collins P. Mary Lynne "
> to " Mary Lynne P. Collins"

A corrected Filing Receipt is enclosed.

Since the printing of the patent has progressed to the point where the requested data cannot be included in the printed patent, petitioner may wish to request a Certificate of Correction under 37 CFR 1.322.

The application is being referred to the Office of Publications.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

cc: QUARLES & BRADY LLP
P.O. BOX 2113
MADISON, WI 53701-2113

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE, WI 53202-4497

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SEP 30 2005

OFFICE OF PETITIONS

In re Application of :
Mary Lynne P. Collins, et al. :
Application No. 10/692,889 :
Filed: October 24, 2003 :
Attorney Docket No. 961094.00002 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313, filed September 27, 2005 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

Petitioner requests that the application be withdrawn from issue in order to permit Applicants to file a Petition to Correct Designation of Inventor. However, 37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a submission pursuant to 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

37 CFR 1.313(c) clearly states that an application will not be withdrawn from issue on petition except for the reasons enumerated. The circumstances of the above-identified application do not fall within any of the exceptions.

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to the Office of Patent Publication.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: QUARLES & BRADY LLP
P.O. BOX 2113
MADISON, WI 53701-2113

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/9/09 **Paper No.:** —

TO SPE OF : ART UNIT 3637

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/692892 Patent No.: 7059254B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/jvc/

/Darnell Jayne/

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RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER
First National Tower, Fourth Floor
106 S. Main Street
Akron, Ohio 44308-1456

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AUG 0 2 2007

OFFICE OF PETITIONS

Applicant: Nick E. Ciavarella et al.
Appl. No.: 10/692,906
Filing Date: October 25, 2003
Title: UNIVERSAL COLLAR KEY
Attorney Docket No.: GOJ 03032
Pub. No.: US 2005/0092771 A1
Pub. Date: May 5, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 11, 2006, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains material errors, as the drawings have been replaced with the contents of another application.

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 request for corrected publication received on April 11, 2006, was not timely filed under 37 CFR 1.221(b).

The patent application publication was published with the contents of another application. Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected 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).

application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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FIRST NATIONAL TOWER, SUITE 400
106 SOUTH MAIN STREET
AKRON OH 44308-1412

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JUN 04 2010

OFFICE OF PETITIONS

In re Application of
Nick E. Clavarella et al.
Application No. 10/692,906
Filed: October 25, 2003
Attorney Docket No. GOJ.P.98US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed March 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply to the final Office action mailed September 21, 2007. Petitioner was advised by way of Advisory Notice mailed December 26, 2007, that the response filed December 3, 2007 failed to place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed April 29, 2008.

The present petition under 37 CFR 1.137(b) is accompanied by an amendment.

The Examiner has determined that the amendment filed with the present petition places the application in condition for allowance.

---

[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 Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The matter is being referred to Technology Center 3754.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

William P. Jensen
Shook, Hardy & Bacon LLP
600 Travis, Suite 1600
Houston TX 77002

In re Application of)
Jack LEES, et al.)
Application No. 10/692,908)
Filed: October 24, 2003)
For: **SYSTEM AND METHOD FOR ANALYZING AND IMAGING AN ENHANCED THREE-DIMENSIONAL VOLUME DATA SET USING ONE OR MORE ATTRIBUTES**)

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed March 29, 2004 pursuant to 37 C.F.R. §102(c) and M.P.E.P. § 708.02(VI): Energy.

A grantable petition under 37 C.F.R. § 1.102(c), and M.P.E.P. § 708.02, Section VI, must be accompanied by a showing that the application is for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances etc. Such petitions should be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above.

The petitioner has met all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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HOUSTON, TX 77010-4035

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OFFICE OF PETITIONS

In re Application of Lees et al. :
Application No. 10/692,908 : Decision on Petition
Filing Date: October 24, 2003 :
Attorney Docket No. 033849-000007 :

This is a decision on the petition under 37 CFR 1.137(a), or in the alternative under 37 CFR 1.137(b), filed November 7, 2005, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **dismissed**.

The petition under 37 CFR 1.137(b) is **granted**.

Facts:

A Notice of Allowance was mailed for the instant application on February 11, 2005. The Notice required payment of $1,400 for the Issue Fee and $300 for the Publication Fee.

Petitioner contends the Office incorrectly charged $1,285 for PCT/US05/14937 on May 6, 2005.

As of May 9, 2005, assuming the funds above were charged in error, the balance in petitioner's deposit account should have been $1,870.

On May 10, 2005, petitioner filed application no. 11/125,688 along with a transmittal form authorizing the Office to charge $1,200 to petitioner's deposit account.

On May 11, 2005, petitioner filed an issue fee transmittal form for the instant application. The form authorized the Office to charge a total of $1,730 to petitioner's deposit account for the issue fee, publication fee, and 10 copies of the patent.

The Office does not always attempt to charge a fee for an application on the same date the Office receives a deposit account authorization. Therefore, a petitioner must ensure that the deposit account contains sufficient funds until the time the fee is charged.

On May 12, 2005, $300 was charged for application no. 11/125,688.[1] After the $300 charge, the account only had a balance of $285.

[1] The remaining fees were later charged to petitioner's deposit account on June 21, 2005.

From May 12, 2005, until May 20, 2005, the deposit account balance was $285. Even if the deposit account had not been charged an extra $1,285 for the PCT application, the balance would have been below $1,700 (issue fee + publication fee).

The petition under 37 CFR 1.137(a)

The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[2] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[3]

Petitioner's deposit account had a balance of $1,870 after May 6, 2005, if the correct fees had been charged on the date the May 6, 2005 paper was filed.

On May 10, 2005, petitioner submitted authorization to charge $1,200 to petitioner's deposit account for application no. 11/125,688.

On May 11, 2005, petitioner submitted authorization to charge $1,730 to petitioner's deposit account for the instant application.

A reasonable and prudent person would have not expected the deposit account to have sufficient funds to cover the fees for application no. 11/125,688 *and* the fees for the instant application.

Petitioner contends a reliable business routine was in place to ensure the deposit account would always contain sufficient fees for all patent related expenses. However, the petition fails to specify how often Kimberly Tobola audits the deposit account. The petition does state the May 6, 2005 error in charging excess fees was caught on June 29, 2005, which is more than 7 weeks later.

Petitioner has failed to specify how often the deposit account is funded to maintain a balance of at least $5,000.

For all the reasons above, the petition fails to prove the entire delay in the submission of the issue fee was unavoidable.

The petition under 37 CFR 1.137(b)

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.

---

[2] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[3] See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

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 Office of Patent Publications will be informed of the instant decision and will take steps to issue the application as a patent.

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: William P. Jensen
Suite 1700
1401 McKinney
Houston, TX 77010-4035

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Michael Roberts et al :
Application No. 10/692,916 :
Filed: October 24, 2003 :
Attorney Docket No. 00216-368005 :

This is a decision on the petition, filed March 31, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 3, 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 1744 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. _____

Date : April 4, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Michael Roberts et al
Application No. :10/692,916
Filed :October 24, 2003

The above-identified application has been assigned Patent No. 6,880,196 and an issue date of April 19, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of April 19, 2005:

"All reference to Patent No. 6,880,196 to Michael Roberts et al of Connecticut for GUM MASSAGING ORAL BRUSH appearing in the Official Gazette of April 19, 2005 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03, (FAX-273-5468
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038)
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Brendan McKeon	: DECISION ON REQUEST FOR
Patent Number	: 7607110	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/692,923	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1240** 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	:	
Lin, Ching-Tien	:	
Application No. 10/692,932	:	ON PETITION
Filed: October 27, 2003	:	
Attorney Docket No. 5349	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 31, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/11/2010

Applicant	: Anand Pande	: DECISION ON REQUEST FOR
Patent Number	: 7668983	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/692,957	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **294** 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.