UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

NOV 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Ronald L. Mahany et al	:	
Application No. 10/692,959	:	DECISION ON PETITION
Filed: October 24, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 14407US02	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 24, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed nonprovisional and international applications as set forth in the amendment to the specification filed on May 22, 2006.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35

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

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUN 0 4 2007

OFFICE OF PETITIONS

In re Application of	:
Ronald L. Mahany et al	:
Application No. 10/692,959	: DECISION ON PETITION
Filed: October 24, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 14407US02	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed December 4, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed nonprovisional and PCT applications set forth in the amendment submitted May 22, 2006. The amendment submitted with the petition deletes the improper "incorporation by reference" statement from the amendment of May 22, 2006.

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 365(c) and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application, unless previously submitted;

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

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

This nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

As the petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. §§ 120 and 365(c) satisifies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Petitioner is advised that the granting of this 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 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 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.

Petitioner is also advised that, where an application claims a benefit under 35 U.S.C. §§ 120 and 365(c) of a chain of applications, each application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d). Petitioner should review the claim submitted to ensure that a reference is made to the first application and to every intermediate application. Additionally, the relationship of each application to the other must be clearly and properly stated.

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

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

This application is being forwarded to the Examiner of Technology Center Art Unit 2616 for examination in due course and for 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 applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/692,959	10/24/2003	2616	1870	14407US02	16	2

CONFIRMATION NO. 1865

CORRECTED FILING RECEIPT

OC000000024202932

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Date Mailed: 06/04/2007

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)

Ronald L. Mahany, Cedar Rapids, IA;
Alan G. Bunte, Cedar Rapids, IA;
Ronald E. Luse, Cedar Rapids, IA;
Guy J. West, Duluth, GA;
Charles D. Gollnick, Antioch, TN;

Power of Attorney:

John Sherman--16909
George McAndrews--22760
Frederik Stonner--25500
William Wesley--26521
L Jarvis--27341
Jesus Sanchelima--28755
Robert Ryan--29343
Charles Lykes Jr--30083
Jean Kuelper--30171
Gregory Vogle--31313

Domestic Priority data as claimed by applicant

This application is a CON of 10/101,436 03/19/2002
which is a CON of 08/959,432 10/28/1997 PAT 6,359,872
which is a CON of 08/500,977 04/04/1996 PAT 5,682,379
which is a 371 of PCT/US93/12628 12/23/1993
which is a CIP of 08/027,140 03/05/1993 PAT 5,602,854
which is a CIP of 07/997,693 12/23/1992 ABN
which is a CIP of 07/982,292 11/27/1992 ABN
and said 08/027,140 03/05/1993
is a CIP of 07/558,895 07/25/1990 ABN
and is a CIP of 07/529,353 05/25/1990 ABN
and is a CIP of 07/854,115 03/18/1992 ABN
and is a CIP of 07/876,776 04/28/1992 ABN

and is a CIP of 07/876,629 04/30/1992 ABN
This application 10/692,959
is a CIP of 09/467,255 12/20/1999 PAT 6,749,122
which is a DIV of 08/239,267 05/06/1994 PAT 6,006,100
which is a CON of 07/876,776 04/28/1992 ABN
which is a CIP of 07/558,895 07/25/1990 ABN
which is a CIP of 07/529,353 05/25/1990 ABN
and said 08/239,267 05/06/1994
is a CIP of 07/854,115 03/18/1992 ABN
which is a CIP of 07/558,895 07/25/1990 ABN
This application 10/692,959
is a CIP of 08/499,328 07/07/1995 PAT 6,654,378
which is a CIP of 08/487,609 06/07/1995 PAT 5,790,536
and is a CIP of PCT/US93/12628 12/23/1993
and is a CIP of 08/239,267 05/06/1994 PAT 6,006,100
and said 08/487,609 06/07/1995
is a CIP of 08/279,148 07/22/1994 PAT 5,657,317
and is a CIP of 07/876,629 04/30/1992 ABN
and said 08/279,148 07/22/1994
is a CIP of PCT/US94/05037 05/06/1994
and is a CIP of 08/205,639 03/04/1994 PAT 5,555,276
and is a CIP of 08/275,821 06/10/1994 ABN
and said PCT/US94/05037 05/06/1994
is a CIP of 08/198,404 02/22/1994 ABN
which is a CON of 08/198,452 02/18/1994 ABN
which is a CIP of 08/168,478 12/16/1993 ABN
and is a CIP of PCT/US93/12628 12/23/1993
and said 08/168,478 12/16/1993
is a CIP of 08/147,377 11/03/1993 ABN
which is a CIP of 08/101,254 08/03/1993 ABN
which is a CIP of 08/085,662 06/29/1993 ABN
which is a CIP of 08/076,340 06/11/1993 ABN
which is a CIP of 08/062,457 05/11/1993 ABN

Foreign Applications

UNITED STATES OF AMERICA PCT/US93/12628 12/23/1993
UNITED STATES OF AMERICA PCT/US91/00435 01/18/1991

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/692,959

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Wireless personal local area network

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the

national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

DATE 8/19/07 APPLICATION NUMBER 10/692,968

DOC CODE Pet. DC. TC DOC DATE 8/19/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HITACHI GLOBAL STORAGE TECHNOLOGIES, INC.
5600 COTTLE ROAD, NHGB/0142
IP DEPARTMENT
SAN JOSE CA 95193

COPY MAILED

AUG 20 2007

OFFICE OF PETITIONS

In re Application of
Lin et al.
Application No. 10/692,968
Filed: October 24, 2003
Attorney Docket No. SJ0920000163US2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 30, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of April 21, 2006. An amendment was filed on July 21, 2006. In response to the amendment a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on August 1, 2006 which set an extendable reply period of one month. A timely reply to the Notice of Non-Compliant Amendment was not received. This application became abandoned on September 2, 2006. A Notice of Abandonment was mailed on April 26, 2007.

The requirements to revive a 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.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Ronald B. Feece
Zilka-Kotab, PC
P.O. Box 721120
San Jose, CA 95172

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

AUG 2 0 2004

TECHNOLOGY CENTER 3600

Donald W. Meeker
924 East Ocean Front #E
Newport Beach, CA 92661

In re application of :
Michael F. Carden Jr. et al. :
Application No. 10/692,986 :
Filed: October 23, 2003 :
For: MESH LINER FOR LIVE BAIT CONTAINERS

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed October 23, 2003 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed October 23, 2003 lacks requirement 2(C) above. In view of this deficiency, the petition is **DISMISSED**.

The applicant, assignee or attorney in addition to stating that a careful search of the prior art has been made, or having good knowledge of the prior art, **must** submit the **most closely** related pieces of prior art. Since "most closely related" is the **best** of the art found, a submission of art is always required, even if the applicant feels that it is not all that related to the invention.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Best Available Copy

Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

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

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

SNM/vdb: 8/17/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

MAILED

APR 27 2010
OFFICE OF PETITIONS

In re Application of :
Galen C. Hunt et al :
Application No. 10/693,004 :
Filed: October 24, 2003 :
Attorney Docket No. MS1-1776US

ON PETITION

This is a decision on the petition, filed April 22, 2010 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 2, 2010 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 2167 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY MN 55125

COPY MAILED

DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of
Forsberg, et al.
Application No.: 10/693,005
Filed: October 24, 2003
Attorney Docket No.: 1023-294US01
For: MEDICAL DEVICE PROGRAMMER WITH INFRARED COMMUNICATION

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 9, 2008, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to properly reply to the final Office action, mailed March 21, 2008. An amendment, filed June 23, 2008 (a Monday) failed to place this application in *prima facie* condition for allowance, as was explained in the October 1, 2008 advisory action. No proper extensions of time were obtained pursuant to 37 CFR 1.136(a). Therefore, this application became abandoned on June 22, 2008. A Notice of Abandonment was mailed on October 20, 2008.

The Notice of Appeal filed October 9, 2008 has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

Regarding finances: 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 $1,100.00 extension of time submitted with the petition on October 9, 2008 was filed subsequent to the expiration of the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioners' deposit account. The same deposit account will be charged 30.00, which is the difference between the increased Notice of Appeal fee and the amount previously paid on October 3, 2007.

After the mailing of this decision, the file will be referred to Technology Center AU 3762 to await receipt of an Appeal brief or other appropriate follow-up submission to the Notice of Appeal.

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

Shirene Willis Brantley

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHUMAKER & SIEFFERT, P.A.
1625 RADIO DRIVE, SUITE 300
WOODBURY, MN 55125

6/18/09

In re Application of:
FROSBERG, JOHN W et al
Serial No.: 10/693,005
Filed: October 24, 2003
Docket: 1023-294US01
Title: MEDICAL DEVICE PROGRAMMER WITH INFRARED COMMUNICATION

DECISION ON PETITION
under 37 CFR 1.181

This is a decision on the petition filed on June 1, 2009 filed under 37 CFR 1.181 seeking to have several grounds of rejections in the Examiner's Answer designated as new grounds of rejection.

The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is GRANTED.

The following relevant facts include:

1. A final rejection was mailed on May 3, 2007. Claims 1-12, 14-15, 17-21 and 32 were rejected under 35 U.S.C. 103(a) as unpatentable over Meadows in view of Whitehurst.

2. In response to the final rejection, the applicant filed an appeal brief on December 3, 2007 to appeal the finally rejected claims.

3. The examiner issued an Examiner's Answer to the appeal brief on April 1, 2009. In the answer, the examiner stated that a device including a software loading port, a hosing defining an aperture for access to the port, and a plate member, as shown in claims 6-9, were well known in the art. The Examiner then presented two example devices to support this conclusion. The example devices are Samsung SCH-u740 cellular telephone and the Palm Centro device.

4. On June 1, 2009, the applicant filed the current petition arguing the examiner has improperly introduced the two example devices in support of his rejection, and these constitute a new ground of rejection raised in the Examiner's Answer. The applicant is looking for the rejection of claims 6-9, 11-12, 14-15, and 17 from the Examiner's Answer to be designated as new grounds of rejection.

Discussion and Analysis

A review of the examiner's answer shows that the examiner has augmented his arguments in the examiner's answer by introducing the new references by ways of example devices, namely Samsung SCH-u740 cellular telephone and the Palm Centro device. If the prior art references in the Final Rejection were properly applied under 35 USC 103, then it would not be necessary to add this new evidence to show that the features claimed are well known in the art. One skilled in this technology would already have known what is common practice in the art. The example of the Samsung cell phone and Palm Centro are unnecessary and should not have been added to support the rejection in the examiner's answer. If the citation of these cell phones was necessary to understand and explain the rejection, then they must have been applied against the claim under the rejection. Because the examiner listed these examples under the response to argument (on page 17 of the examiner's answer), the references to these items constitute new grounds of rejection.

In order to clarify the record and to comply with MPEP 1207.03[1], the examiner is directed to 1) vacate the examiner's answer of April 1, 2009; and 2) issue a revised examiner's answer without any reference to these newly cited example devices, if the examiner believes that the final rejection is proper, or 3) with the Technology Director's approval, to clearly identify the examiner's grounds of rejection in the revised examiner's answer as new grounds of rejection with any or all of the new references. Under the circumstance, the examiner does have the option to re-open prosecution (with supervisory approval) if the example devices are to be used as prior art references against the claims. The examiner is reminded that the rejection in an examiner's answer must limited to the final rejection of the claims and the response to the applicant's arguments of March 21, 2008.

---

[1] MPEP § 1207.03, last paragraph states: A new prior art reference >applied or< cited for the first time in an examiner's answer generally will constitute a new ground of rejection. If the citation of a new prior art reference is necessary to support a rejection, it must be included in the statement of rejection, which would be considered to introduce a new ground of rejection. Even if the prior art reference is cited to support the rejection in a minor capacity, it should be positively included in the statement of rejection. In re Hoch, 428 F.2d 1341, 1342 n.3, 166 USPQ 406, 407 n. 3 (CCPA 1970).**>Where< a newly cited reference is added merely as evidence of the prior ** statement made by the examiner >as to what is "well- known" in the art which was challenged for the first time in the appeal brief<, the citation of the reference in the examiner's answer would not >ordinarily< constitute a new ground of rejection within the meaning of 37 CFR *> 41.39(a)(2)<. See also MPEP § 2144.03.

Conclusion

For the foregoing reasons, the relief requested by the petition is granted to the extent that the Examiner's Answer of April 1, 2009 is hereby vacated and a new revised examiner's answer will be mailed in due course.

The application is being forwarded to the examiner in Art Unit 3762 via the Supervisory Patent Examiner for further processing consistent with this decision. Appellant may file a request for reconsideration of this decision, without fee. However, such a request must be filed within two months of the date of this decision. See 37 CFR 1.181. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Donald T. Hajec, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY MN 55125

11/27/09

In re Application of: FORSBERG, JOHN W. et al Serial No.: 10/693,005 Filed: Oct. 24, 2003 Docket: 1023-294US01 Title: MEDICAL DEVICE PROGRAMMER WITH INFRARED COMMUNICATION	DECISION ON PETITION under 37 CFR 1.181

This is a decision on the petition filed on November 23, 2009 filed under 37 CFR 1.181 seeking to have the rejection of the dependent claim 15 in the Supplemental Examiner's Answer mailed on September 23, 2009 be designated as a new ground of rejection.

The petition is being considered pursuant to 37 CFR 1.181 and no fee is required.

The petition is DISMISSED.

The following relevant facts include:

1. Pursuant to the petition decision mailed on June 18, 2009, a Supplemental Examiner's Answer was mailed on September 23, 2009 to remove he objection of the examiner's reference to the example devices of Samsung SCH-u740 cellular telephone and the Palm Centro device. In the Supplemental Examiner's Answer, on page

2. In response to the Supplemental Examiner Answer of September 23, 2009, the applicant filed a Reply Brief. In the Reply Brief, the applicant addressed and answered all of the examiner's arguments as stated under the "Response to Argument" of the Supplemental Examiner's Answer. In particular, the applicant questioned the examiner's arguments regarding the dependent claim 15. The applicant also indicated that the examiner's arguments regarding claim 15 constitutes new ground of rejection.

3. On November 23, 2009, the applicant filed the current petition arguing that the examiner has improperly introduced a new ground of rejection in the Supplemental Examiner's Answer of September 23, 2009. The applicant is requesting the rejection of dependent claim 15 of the Supplemental Examiner's Answer to be designated as new ground of rejection. In the petition, the applicant argues that the bottom paragraph of page 19 of the Supplemental Examiner's Answer, the statement "Removal of the battery cover of such a cell phone clearly reveals that the antenna extends into the battery bay." is based on the examiner's personal knowledge. Therefore, the rejection of dependent claim 15 must be designated as a new ground of rejection.

Discussion and Analysis

A review of the final rejection of March 21, 2008 and the Supplemental Examiner's Answer of September 23, 2009 shows there is no new ground of rejection at all. In the petition, petitioner argues that the examiner's rebuttal statement "Removal of the battery cover of such a cell phone clearly reveals that the antenna extends into the battery bay." is based on the examiner's personal knowledge. Petitioner questions whether "such a cell phone" is based on the examiner's own knowledge so that an affidavit should be obtained from the examiner. Therefore, the rejection of dependent claim 15 must be designated as a new ground of rejection. However, a careful study of the final rejection of March 21, 2008 and the Supplemental Examiner Answer of September 23, 2009 does show that the rejection of claim 14 was based on the obvious matter of design choice with an example "such as cellular phone". Since claim 15 is dependent upon claim 14, the examiner, in his rebuttal argument at the bottom paragraph of page 19 of the Supplemental Examiner's Answer, apparently referred to the same cell phone of the rejection of claim 14.

The Supplemental Examiner's of September 23, 2009 simply does not show any new grounds of rejection. It should be noted that there is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. It is further noted that the applicant has filed a Reply Brief to fully rebut the examiner's rebuttal arguments in the Supplemental Examiner's Answer of September 23, 2009. The cell phone referred to at the bottom paragraph of page 19 of the Supplemental Examiner's Answer of September 23, 2009 regarding claim 15 appears to be referring to the rejection of claim 14 (see rejection of claim 14) . The rejection of claims were never changed. Petitioner can not now argue that the applicant did not have an opportunity to argue and react to the rejections from March 21, 2008. If petitioner believes the first Office action or the final rejection was incomplete or unclear, petitioner should have brought to the examiner's attention in the first place.

The examiner's rebuttal arguments at the bottom paragraph of page 19 of the Supplemental Examiner's Answer do not alter the grounds of rejection presented in Section 9 of the Supplemental Examiner's Answer. In this case, the statutory basis for the rejection and the evidence relied upon in support of the rejection remained the same in the non-final rejection, the final rejection and the Supplemental Examiner's Answer. In such a circumstance, a change in the discussion of, or rationale in support of, a change of arguments, if any, the examiner's rebuttal arguments do not necessarily constitute a new

ground of rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425,426-27 (CCPA 1976); MPEP § 1207.03III)[1]. Petitioner should also note that even if the suggestion to characterize the examiner's rebuttal arguments in the Supplemental Examiner's Answer of September 23, 2009 as new ground of rejection were persuasive, which it is not, the appellant still would have had a fair opportunity to react to these rebuttal arguments in the Reply Brief as permitted under 37 CFR 41.41(a) (1). In this case, the applicant in fact did file a Reply Brief to react to the examiner's rebuttal arguments on November 23, 2009. A fair opportunity to react to the examiner's rebuttal arguments was already provided.

Conclusion

For the foregoing reasons, the relief requested by petitioners will not be granted. Specifically, the requested designation of the rejection of dependent claim 15 as new ground of rejection in the Supplemental Examiner's Answer of September 23, 2009 can not be granted.

The application is being returned to the examiner via the Supervisory Patent Examiner of Art Unit 3762 for consideration of the Reply Brief filed on November 23, 2009 and forward to the Board of Appeals and Interference for decision.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1. 136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

The petition is dismissed.

Robert Olszewski, Director
Technology Center 3700

---

[1] MPEP 1207.03 III states in pertinent part: There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. Id. at 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHUMAKER & SIEFFERT, P. A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL MN 55125

COPY MAILED
JUN 30 2005
OFFICE OF PETITIONS

In re Application of Phillips et al. Application No.10/693,007 Filed: October 24, 2003 Attorney Docket Number: 1023-284US01 Title of Invention: Z-AXIS ASSEMBLY OF MEDICAL DEVICE PROGRAMMER	: : : : : : :	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed on June 14, 2004, requesting that the above-identified application be accorded a filing date of October 24, 2003, rather than the presently accorded filing date of October 23, 2003.

Petitioner contends the application was deposited in Express Mail service on October 24, 2003. In support, petitioner supplied a copy of Express Mail receipt No. ET987500744US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). Petitioner has also supplied a copy of the Office stamped postcard receipt which contains a date of October 24, 2003.

In view of the above, the petition is **Granted**. No petition fee is due and none has been charged.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **October 24, 2003** and issuance of a corrected Filing Receipt.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Tue Nguyen
496 Olive Ave.
Fremont CA 94539

COPY MAILED
SEP 25 2006
OFFICE OF PETITIONS

In re Application of :
Hitt :
Application No. 10/693,017 : ON PETITION
Filed: October 24, 2003 :
Attorney Docket No. DSI-P103 :
For: WIRELESS SENSOR PROBE

This is a decision on the petition filed June 6, 2006 under 37 CFR 1.137(b) to revive the above-identified application. The petition will be treated under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

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

The Office contended that the above-identified application became abandoned for failure to timely reply to the Notice of Noncompliant Amendment, mailed November 17, 2004, which set a period for reply of one (1) month. Having received no reply, the Office considered the application abandoned on December 18, 2004. A Notice of Abandonment was mailed on June 3, 2005.

The Office received a request for withdrawal as attorney and change of correspondence address on August 4, 2004. On August 13, 2004, the Office mailed a Notice informing the prior attorneys of record that their power of attorney had been revoked. It is noted that there is no record in the application filed of the usual forms noting withdrawal of attorney being generated or mailed. Unfortunately, the Office did not promptly enter the change in address listed in the August 4, 2004 request for withdrawal as attorney and change of correspondence address. This error resulted in the November 17, 2004 Notice of Noncompliant Amendment being mailed to the previous correspondence address of record, rather than the correct correspondence address of record. The correct correspondence address was not entered into Office databases until November 16, 2005.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. The petition under 37 CFR 1.137(b) is dismissed as moot. The $750.00 petition fee submitted with the instant petition will be refunded to petitioner's credit card.

There is no need to re-mail the Office action in question, as petitioner has submitted a response to it with the present petition.

After the mailing of this decision, the application will be forwarded to Technology Center AU 2856 for consideration of the amendment, filed on June 6, 2006.

Telephone inquiries may 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

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

Nixon Peabody LLP-Brocade
200 Page Mill Road
Suite 200
Palo Alto, CA 94306

Mail Date: 04/21/2010

Applicant	: Nitin Jain	: DECISION ON REQUEST FOR
Patent Number	: 7639608	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/693,037	: 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 **1295** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Townsend and Townsend and Crew LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

COPY MAILED

JUN 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Joost A. Kolkman et al.	:	
Application No. 10/693,056	:	DECISION ON PETITION
Filed: October 24, 2003	:	TO WITHDRAW
Attorney Docket No. 022013-000160US	:	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 21, 2006.

The request is **APPROVED**.

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

The request was signed by Matthew E. Hinsch on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

There is no outstanding Office action at this time.

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

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Joost A. Kolkman**
2584 Cowper Street
Palo Alto, CA 94301

cc: **Charles K. Sholtz, Ph.D**
Amgen, Inc.
1120 Veterans Boulevard
South San Francisco, CA 94080

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
10/693,056	10/24/2003	Joost A. Kolkman	022013-000160US

CONFIRMATION NO. 1550

OC000000024214903

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 06/05/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/21/2006.

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

Jerri S. Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

COPY MAILED

MAY 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Joost A. Kolkman et al.	:	
Application No. 10/693,057	:	DECISION ON PETITION
Filed: October 24, 2003	:	TO WITHDRAW
Attorney Docket No. 022013-000170US	:	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 21, 2006.

The request is **APPROVED**.

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

The request was signed by Matthew E. Hinsch on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

The application became abandoned for failure to timely respond to the Office action mailed November 13, 2006.

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Joost A. Kolkman**
2584 Cowper Street
Palo Alto, CA 94301

cc: **Charles K. Sholtz, Ph.D**
Amgen, Inc.
1120 Veterans Boulevard
South San Francisco, CA 94080

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
10/693,057	10/24/2003	Joost A. Kolkman	022013-000170US

CONFIRMATION NO. 1548

OC000000023935581

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 05/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/21/2006.

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

Terri S. Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stephen H. Doctor
MCDONNELL BOEHNEN HULBET & BERGHOFF
300 South Wacker
Suite 3200
Chicago, IL 60606

In re Application of:	:	
SIRNA THERAPEUTICS, INC.	:	
PCT No.: PCT/US02/15876	:	DECISION ON PETITION
International Filing Date: 17 May 2002	:	UNDER 37 CFR 1.10
Priority Date: 18 May 2001	:	
Attorney's Docket No.: 02-312-PCT;600.019	:	
For: CONJUGATES AND COMPOSITIONS FOR	:	
CELLULAR DELIVERY	:	

This decision is issued in response to the "Petition To Accord Express Mail 'Date In' As Filing Date" filed 03 August 2004, treated herein under 37 CFR 1.10(c). The petition seeks to correct the international filing date to 17 May 2002. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EL602855817US. The transmittal letter filed with the application materials lists this "Express Mail" label number, and identifies the date of deposit as 17 May 2002.

On 20 June 2002, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 20 May 2002 as the international filing date.

On 03 August 2004, applicant filed the petition considered herein. The petition seeks correction of the international filing date to 17 May 2002, the date on which applicant claims the application was deposited with the USPS. The submission includes, among other materials, a copy of the customer receipt for Express Mail label number EL602855817US, which bears a "date in" of 17 May 2002.

DISCUSSION

The present international application was accorded an international filing date of 20 May 2002. Applicant asserts that the proper international filing date is 17 May 2002, the date on which the Express Mail envelope containing the application materials was deposited with the USPS. As noted above, applicant has supplied a copy of the customer receipt for the Express

Mail envelope bearing a "date in" of 17 May 2002, and the Express Mail label number for this envelope was identified on the transmittal letter filed with the application papers. In addition, the USPTO Express Mail database identifies 17 May 2002 as the date on which this Express Mail envelope was accepted by the USPS.

Based on applicant's statements, the Express Mail database acceptance date of 17 May 2002, and the 17 May 2002 "date in" entered by the USPS on the Express Mail label, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 May 2002. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 May 2002.

CONCLUSION

Applicant's petition for correction of the international filing date is **GRANTED**.

The international filing date is corrected to **17 May 2002**. The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 June 2002, which identified 20 May 2002 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which correctly identifies the international filing date as **17 May 2002** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

McDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

COPY MAILED
DEC 08 2006
OFFICE OF PETITIONS

In re Application of	:	
JAMES McSWIGGEN ET AL	:	
Application No. 10/693,059	:	DECISION GRANTING PETITION
Filed: October 23, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 03-465-A (400.136)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures, mailed February 10, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time or reply having been received, the above-identified application became abandoned on April 11, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply to the Notice of February 10, 2005, (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of July 8, 2004 is accepted as having been unintentionally delayed.

It is noted that the incomplete reply filed on August 12, 2004 included an executed Declaration and Power of Attorney, a $65 small entity surcharge fee, and a $510 three month small entity extension of time fee (which at the time of submission should have been a four month extension of time fee). Despite the fact that a small entity statement was submitted on the filing of this application and small entity fees were paid for the filing fee, the surcharge fee and the extension of time fee, a large

entity petition fee of $1,500 accompanied the present petition to revive. If this application is no longer entitled to small entity status, a statement in accordance with 37 CFR 1.27(g)(2) must be submitted. This application will retain small entity status until otherwise properly notified.

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

This matter is being referred to the Office of Initial Patent Examination for pre-examination processing.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE :

TO SPE OF : ART UNIT

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

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

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

Comments: The Certificate of Correction adds Robert Austin as an inventor. This request was first made by a petition under 37 CFR 1.48(a)(5) on May 23, 2005 and approved in the Office action of February 22, 2006.

Abi Nagurola

Nam Nguyen

SPE:

1753

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
DIW 01-05

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

COPY MAILED

FEB 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Sivapackia Ganapathiappan	:	
Application No. 10/693,113	:	DECISION GRANTING
Filed: 24 October, 2003	:	PETITION
Atty Docket No. 10010060-4	:	

This is a decision on the petition filed under 37 CFR 1.78(a)(3) on 6 December, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of a prior-filed nonprovisional application.

The petition is **GRANTED**.

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

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application, unless previously submitted;[1]

[1]Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to 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) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The present pending application was filed on 24 October, 2003, and was pending at the time of filing of the instant petition. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, which was filed concurrently with the present petition under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed Application No. 09/956,431 is granted as of the date of filing the petition.

The benefit claim has been entered in Office records. A corrected Filing Receipt accompanies this decision. The claim to Application No. 09/853,172 has been deleted and replaced by the claim to Application No. 09/956,431.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed

applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

The application will be referred to Technology Center Art Unit 1713 for processing the amendment filed with the present petition, and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior-filed nonprovisional application.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 571-272-3231.

Charles A. Pearson
Director, Office of Petitions

Encl: Corrected Filing Receipt

PET DEC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner:	To Be Assigned
Group Art Unit:	To Be Assigned
Applicant:	ANDREACO, et al.
Atty Docket No:	25178.01
Serial No.:	
Filed:	With Application
For:	Method for Producing a High Resolution Detector Array

PETITION TO MAKE SPECIAL BASED UPON APPLICANT'S AGE

Commissioner of Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to Section 708.02 of the Manual of Patent Examining Procedures, Applicant hereby petitions the Commissioner for an order to make the examination of the subject patent application special. The enclosed patent application is a divisional application of Serial No. 09/972,339. Applicant has submitted herewith a Declaration In Support of the Petition To Make Special evidencing that the co-inventor and applicant, Charles Williams, is seventy-two (72) years of age and hence is eligible for the granting of a Petition To Make Special.

Thus, applicant respectfully requests that the Commissioner of Patents grant an order to make the examination of the subject application special.

Respectfully Submitted,

Raymond E. Stephens
Reg. No.: 42,170

NOV 30 2004

SN 10/693116

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

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.
10/693,122	10/24/2003	Hilliard J. Keith	HILLIARD03/01	1619

27988 7590 06/08/2006
JOSEPH T. REGARD, LTD PLC
PO DRAWER 429
MADISONVILLE, LA 70447-0429

EXAMINER
MACPHERSON, MEOGHAN E

ART UNIT	PAPER NUMBER
3732	

DATE MAILED: 06/08/2006

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Joseph T. Regard
PO Drawer 429
Madisonville, LA 70447-0429

In re Application of	:	
Keith et al.	:	DECISION ON PETITION
Serial No. : 10/693,122	:	TO ACCEPT
Filed : October 24, 2003	:	COLOR PHOTOGRAPHS
For: **PRESSURE INDICATOR GEL SYSTEM AND METHOD THEREFORE**	:	

This is a decision on petitioner's request filed October 23, 2003 to accept color photographs.

Under 37 CFR 1.84(b)(2) color photographs will be accepted in utility applications if: (a) a fee as set forth in 37 CFR 1.17(h) is submitted; (b) three (3) sets of color drawings are provided; (c) a black and white photocopy accurately depicting, to the extent possible, the subject matter shown in the color drawing is submitted; and (d) the specification is amended by inserting as the first paragraph of the brief description of the drawings the following language:

> The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Applicant has complied with the above requirements. Accordingly, the petition to accept color photographs is GRANTED.

Summary: Petition to accept color photographs granted.

Corrine McDermott
SPE, Art Unit 3738
Phone: (571) 272-4754

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RAYTHEON COMPANY
PATENT DOCKET ADMINISTRATION
BLDG. EO/E4/N119
P.O. BOX 902
EL SEGUNDO, CA 90245

COPY MAILED

MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of :
James R. Gallivan, et al. :
Application No. 10/693,125 : ON PETITION
Filed: October 24, 2003 :
Attorney Docket No. PD-03W068 :

This is a decision in response to the petition, filed September 26, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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 Gregory J. Gorrie appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Gorrie desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 17, 2006. A Notice of Abandonment was mailed on September 12, 2006. On September 26, 2006, the present petition was filed, along with an amendment and a 3-month petition for extension of time.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500.00; and (3) an adequate statement of unintentional delay[1].

Accordingly, the petition is **GRANTED**.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or within the response period set by statute. In no case, however, may an applicant respond later than the

[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.

maximum time period set by statute. The extension of time submitted August 21, 2006 was filed when the provisions of 37 CFR 1.136 could no longer be used. Therefore, this application became abandoned when the unextended time for response had expired, i.e., May 18, 2006. Since no extension of time fees are due on a petition for revival, the extension fees submitted after abandonment are being credited to counsel's deposit account.

The application is being referred to Technology Center AU 3742 for consideration of the amendment filed September 26, 2006.

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: GREGORY J. GORRIE
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

OCT 31 2007

OFFICE OF PETITIONS

THE DIRECTV GROUP, INC.
PATENT DOCKET ADMINISTRATION
CA / LA1 / A109
P.O. BOX 956
EL SEGUNDO, CA 90245-0956

In re Application of :
Ernest C. Chen :
Application No. 10/693,135 : ON PETITION
Filed: October 24, 2003 :
Attorney Docket No. PD-201062

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 20, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
SEP 0 5 2006
OFFICE OF PETITIONS

In re Patent No. 6,959,496 :

Issue Date: November 1, 2005 :

Application No. 10/693,152 : ON PETITION

Filed: October 23, 2003 :

Attorney Docket No. **06912/100M655-US1**

This is a decision on the petition filed January 20, 2006, titled "Petition (37 CFR 1.183) and Request for Certificate of Correction of Applicant's Mistake (37 CFR 3.23) and Patent Office Mistake (37 CFR 1.322)" which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **dismissed**.

The instant petition must be dismissed because it addresses two elements—one of which the Office of Petitions is not authorized to entertain. The petition seeks not only to correct assignee data on the patent, but also to correct inventorship by adding an inventor to the patent. In order to add an inventor after a patent issues, a petition under 37 CFR 1.324 must be filed; these petitions are treated in the Technology Center where the application was examined. While the Office of Petitions can treat the request under 37 CFR 3.81(b) relative to the assignee data, the request must be dismissed because the certificate of correction that accompanied the request contains more than the assignee data. The certificate of correction is improper relative to the request under 37 CFR 3.81(b) because it contains corrections to the inventorship for which the undersigned can make no decision. The petition must be dismissed accordingly.

Petitioner may file a renewed request under 37 CFR 3.81(b) with a certificate of correction containing only the assignee data. Questions regarding corrections to the inventorship of the application should be directed to Technology Center 3600.

The renewed request may directed to the following:

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

COPY MAILED

APR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
DIFFRIENT, Niels	:	
Application No. 10/693,154	:	DECISION ON PETITION
Filed: October 23, 2003	:	TO WITHDRAW
Attorney Docket No. **0007049**	:	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 29, 2007.

The request is **NOT APPROVED.**

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "Alston & Bird LLP no longer represents Humanscale Corporation", 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: **PATRICK J. HOEFNER, ESQ.**
HUMANSCALE CORPORATION
11 EAST 26TH STREET, 8TH FLOOR
NEW YORK, NY 10010

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

COPY MAILED

MAY 23 2008

In re Application of	:	
DIFFRIENT, Niels	:	
Application No. 10/693,154	:	DECISION ON PETITION
Filed: October 23, 2003	:	TO WITHDRAW
Attorney Docket No. 0007049	:	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 28, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **ALSTON & BIRD LLP** has been revoked by the assignee of the patent application on May 20, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JONES WALKER WAECHTER POITEVENT CARRERE & DENEGRE, LLP**
8555 UNTIED PLAZA BOULEVARD, 5TH FLOOR
BATON ROUGE, LA 70809

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JAN 11 2008

OFFICE OF PETITIONS

In re Application of :
Arch D. Robison :
Application No. 10/693,156 : ON PETITION
Filed: October 24, 2003 :
Attorney Docket No. 42P11329D :

This is a decision on the petition filed, September 4, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 18, 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 April 19, 2007.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on September 4, 2007.

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

This matters is being referred to Technology Center AU 2192 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,166	10/23/2003	Ronit Yahalomi	1662/611055	2633

26646 7590 10/17/2006
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER
PUTTLITZ, KARL J

ART UNIT	PAPER NUMBER
1621	

DATE MAILED: 10/17/2006

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Payam Moradian
Kenyon & Kenyon
One Broadway
New York, N.Y. 10004

Date: October 16, 2006
Application No. 10/693,166
Filed: October 23, 2003
Subject: **Polymorphic Forms of Nateglinide**

ON PETITION

Receipt is acknowledged of the petition filed January 30, 2006, under 37 CFR 1.48(a), for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, January 30, 2006 the Inventorship of this non-provisional, application has been changed by the **addition of SHLOMIT WIZEL**. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

THURMAN K. PAGE, M.A., J.D.
SUPERVISORY PATENT EXAMINER

THURMAN K. PAGE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1621
Remsen 5D11
571-272-0602

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORGAN & FINNEGAN
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

COPY MAILED

FEB 0 9 2006

OFFICE OF PETITIONS

In re Application of	:
Kenneth L. Rinehart et al	:
Application No. 10/693,174	: DECISION ON PETITION
Filed: October 23, 2003	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 4126-4012	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 18, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The petition fails to comply with item (1) above.

The concurrently filed amendment to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement and providing the filing date for provisional Application No. 60/043,599, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

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

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

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

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

As authorized, the $1,370 fee required by 37 CFR 1.78(a)(3)(ii) will be charged to petitioner's Deposit Account No. 13-4500.

---

[1] *Note* 37 CFR 1.121

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.

Frances Hicks

Frances Hicks
Lead 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

MORGAN & FINNEGAN
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

COPY MAILED

MAY 0 4 2006

OFFICE OF PETITIONS

In re Application of
Kenneth L. Rinehart et al
Application No. 10/693,174
Filed: October 23, 2003
Attorney Docket No. 4126-4012

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

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed March 2, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed provisionals applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional applications satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

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

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1614 for appropriate action on the amendment submitted March 2, 2006, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

H·A

June 2005

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

JUN 23 2005

In re Application of:
SHUJI SUGIMOTO
Serial No.: 10/693,180
Filed: 24 October 2003
Docket Number: 16869K-098600US

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed on July 22, 2004 (resubmitted on February 3, 2005), to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petitioner provides: a) the applicable petition fee; b) a statement that all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out how the claimed subject matter is distinguishable over the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) a petition to make special accompanied by the applicable petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a) – (d) are considered to have been met. However, petitioner fails to point out with the particularity required by 37 CFR § 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references. Therefore, petitioner fails to meet the requirement of MPEP § 708.02(VIII)(e).

37 CFR § 1.111 (b) states"[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made."

Applicant presents a summary of the limitations of the independent claims (pages 2-3), a statement that none of the references disclose the circuit board having combination of limitations found in the independent claims (page 4), and a list of each of the cited references along with a short summary of the teachings of each reference (pages 4-5).

Petitioner fails to distinguish each independent claim from each reference in a manner satisfying 37 CFR § 1.111 (b) and (c). For instance, with respect to submitted reference number 5, petitioner does not state what limitations the claims recite which are neither disclosed nor made obvious by the reference. Such a statement is required under 37 CFR § 1.111 (b) and (c). A mere summary of the claims and the references, with no comparison and distinguishment between the two, is insufficient to satisfy the requirements of MPEP § 708.02(VIII)(e).

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely.

Any inquiry regarding this decision should be directed to Edward P. Westin, Special Program Examiner, at (571) 272-1638.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA PA 19103-2307

COPY MAILED

SEP 13 2007

OFFICE OF PETITIONS

In re Application of :
Randall R. Geib :
Application No. 10/693,195 : DECISION ON PETITION
Filed: October 24, 2003 :
Attorney Docket No. :
0241-P03282US0

This is a decision on the petition under 37 CFR 1.181(a), filed May 4, 2007, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action of October 3, 2006, which set a three (3) month shortened statutory period for reply. A reply was due on or before January 3, 2007, or on or before April 3, 2007, with the appropriate extension of time fee.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on April 9, 2007 of the following documents: "Response, §1.8 Cert. Of Mailing, §1.136 Pet. for Extension, Fee Transmittal (Dupl.), $1,120 check, Auth. to charge dep. acct. A copy of the previously submitted reply, along with a copy of the certificate of mailing dated April 3, 2007, accompanies the petition.

The correspondence stated to have been mailed by certificate of mailing on April 3, 2007 was in fact received on April 9, 2007, and is of record in the file record of this application. Further, the $1,020 extension of time fee appears in the finance records of the USPTO. Accordingly, as the reply was timely filed, the holding of abandonment in this application was improper.

In view of the above, the Notice of Abandonment is **vacated** and the holding of abandonment is hereby **withdrawn**.

It is noted that the Notice of Abandonment of April 10, 2007 indicates that the examiner has confirmed with petitioner herein that no reply was submitted. However, as the reply is now of record, it is clear that this statement is incorrect.

This application is being referred to Technology Center AU 3679 for appropriate action in the normal course of business on the reply received on April 9, 2007.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MH2 TECHNOLOGY LAW GROUP (Cust. No. w/NewMarket)
1951 KIDWELL DRIVE
SUITE 550
TYSONS CORNER VA 22182

COPY MAILED

JAN 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Mark T. Devlin et al.	:	
Application No. 10/693,197	:	DECISION GRANTING PETITION
Filed: October 24, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0013.0051	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 23, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 16, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1714 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED
JUN 23 2005
OFFICE OF PETITIONS

Applicant: Plath
Appl. No.: 10/332,110
International Filing Date: July 4, 2001
Title: AN APPARATUS FOR PRODUCING A CATALYTIC REACTION
Attorney Docket No.: 08788.0027USWO
Pub. No.: US 2004/0025872 A1
Pub. Date: February 12, 2004

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on March 22, 2004, for the above-identified application.

The request is granted.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

05 JAN 2006

FULBRIGHT & JAWORSKI
Twenty Ninth Floor
865 South Figueroa Street
Los Angeles, CA 90017-2576

In re Application of: SHINOTSUKA, et al. Application No.: 10/693,204 Filing Date: October 24, 2003 Attorney Docket No.: 7272-131/10312233 For: OUTPUT-COMPENSATING DEVICE AND METHOD OF AN IMAGE SENSOR	DECISION ON PETITION UNDER 37 CFR 1.182

This decision is issued in response to the "Petition Under 37 CFR 1.182 To Accept Substitute Translation Of PCT Claims" filed May 02, 2005. Applicant has paid the required petition fee.

BACKGROUND

On March 28, 2002, applicants filed international application PCT/JP02/03089, which claimed a priority date of April 27, 2001 and which designated the United States. The deadline for submission of the basic national fee and national stage entry was thirty months from the priority date, i.e., October 27, 2004.

On October 24, 2003, applicants initiated the present U.S. application by filing a transmittal letter and accompanying materials, including a specification and thirty-two claims. The transmittal letter used by applicant identifies the submission initially as an "Entry National Phase (PCT)" based on PCT/JP02/03089. However, the transmittal letter also identified the submission as a "Filing Under 37 CFR 1.53(b)."

On January 28, 2004, the USPTO mailed a "Notice To File Missing Parts Of Nonprovisional Application Filed Under 37 CFR 1.53(b)" indicating that the submission had been treated as a filing under 35 U.S.C. 111(a) and 37 CFR 1.53(b). The Notice required submission of an oath or declaration in compliance with 37 CFR 1.63 and the surcharge for late filing the oath or declaration.

On March 18, 2004, applicants filed a response to the Notice, including an executed declaration and the required surcharge payment.

On April 04, 2004, the USPTO issued a filing receipt.

On May 02, 2005, applicants filed the petition considered herein.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a) of the MPEP states the following:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

As noted above, applicant's October 24, 2003 filing included a transmittal letter that referred to the submission as both a national stage filing and a submission under 37 CFR 1.53(b). The inclusion of these two descriptions of the submission constitutes "conflicting instructions" which, pursuant to the MPEP, requires that the application be treated under 35 U.S.C. 111(a). Accordingly, the original papers deposited on October 24, 2003 were correctly treated as a filing under 35 U.S.C. 111(a).

The present petition is based on the mistaken belief that the present application is a national stage filing under 35 U.S.C. 371 and, therefore, that a translation of the claims contained in the international application is required. The petition is moot because, as discussed above, the present application is not a U.S. national stage of PCT/JP02/03089. Rather, it is a U.S. application filed under 35 U.S.C. 111(a). Accordingly, the claims filed October 24, 2003 are the claims of record herein, and the replacement of these claims with the claims from the international application would not be appropriate without an amendment under 37 CFR 1.121 directing the USPTO to amend claims 1-32.

It is noted that the filing receipt mailed herein on April 05, 2004 lists PCT/JP02/03089 under "foreign applications." This is inappropriate as PCT/JP02/03089 was filed more than one year prior to the filing date of the present application. Accordingly, a corrected filing receipt is issued herewith wherein the reference to PCT/JP02/03089 as a foreign application has been removed.

The present U.S. application does not at present include a claim of priority to any prior-filed applications. Applicant may be entitled, subject to 37 CFR 1.78(a)(2)(ii), to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 10/693,204) and the international application (PCT/JP02/03089) designating the United States were copending on October 24, 2003. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is an continuation of

international application PCT/JP02/03089, filed 28 March 2002, which designated the United States and is now abandoned." Alternatively, applicant may submit an application data sheet with the benefit claim included therein. Applicant may need to file a petition and fee under 37 CFR 1.78(a)(3) to be entitled to make the claim.

Similarly, applicant may be entitled to claim the benefit of the Japanese priority applications identified in the international application. The addition of any such claims to the present application must be made pursuant to the requirements of 35 U.S.C. 119 and 37 CFR 1.55; a petition and fee under 37 CFR 1.55(c) may be required. In addition, applicant is reminded that in, order to perfect any claim for priority under 35 U.S.C. 119, applicant must submit a certified copy of the foreign priority documents. The certified copies of priority documents submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

CONCLUSION

For the reasons discussed above, the petition under 37 CFR 1.182 is **DISMISSED** as moot. The present application will continue to be treated as a filing under 35 U.S.C. 111(a) and 37 CFR 1.53(b). The claims of record are the claims filed with the original application papers on October 24, 2003.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182."

Please direct further correspondence with respect to this petition to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The present application is being referred to the Technology Center Art Unit 2612.

Richard M. Ross
PCT Petitions Attorney
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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
10/693,204	10/24/2003	2612	2596	7272-131/ 10312233	15	32	16

CONFIRMATION NO. 2344

CORRECTED FILING RECEIPT

OC000000017716323

000167
FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES, CA 90071

Date Mailed: 12/23/2005

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)

Sukeyuki Shinotsuka, Sayama-shi, JAPAN;
Atsushi Nakajima, Sayama-shi, JAPAN;
Hironari Watanabe, Sayama-shi, JAPAN;

Assignment For Published Patent Application

Honda Giken Kogyo Kabushiki Kaisha

Power of Attorney: The patent practitioners associated with Customer Number **000167**.

Domestic Priority data as claimed by applicant

Foreign Applications

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 US10/693,204

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Output-compensating device and method of an image sensor

Preliminary Class

348

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FULBRIGHT AND JAWORSKI LLP
555 S FLOWER STREET 41ST FLOOR
LOS ANGELES CA 90071

COPY MAILED

SEP 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Shinotsuka, et al.	:	
Application No. 10/693,204	:	DECISION ON PETITION
Filed: October 24, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 7272-131/10312233	:	AND 37 CFR 1.55(c)

This is a decision on the "COMBINED PETITION FOR UNINTENTIONALLY DELAYED DOMESTIC AND FOREIGN PRIORITY CLAIMS UNDER 37 C.F.R. 1.78(a) AND 1.55(c)", filed June 7, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365 (c) for the benefit of the filing date of PCT application No. PCT/JP02/003089, filed March 28, 2002, and to accept an unintentionally delayed claim under 35 U.S.C. 119(a)-(d) for the benefit of the filing date of foreign application Nos. JP 2001-170263 (filed August 27, 2001), JP 2001-330010 (filed September 20, 2001), JP 2001-385276 (filed November 13, 2001), and JP 2002-79681 (filed February 14, 2002).

The petitions are **GRANTED**.

The pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

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

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The PCT application upon which the instant nonprovisional application claims priority was filed on March 28, 2002, which is after November 29, 2000 and within 12 months of the filing date of the foreign applications to which priority is now being claimed. With the instant petition, applicant has submitted an ADS identifying the foreign applications for which priority is claimed by application number, country, and filing date. The required petition fee of $1,370 was received with the petition. Lastly, petitioner provided a proper statement of unintentional delay.

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 above-noted, prior-filed application has been included in an ADS; (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120, 119 and 365(c) and 37 CFR 1.78 and 1.55 must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

The application is being forwarded to Group Art Unit 2622.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Anthony Knight
Supervisory Petitions Examiner
Office of Petitions

Enc: 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
10/693,204	10/24/2003	2622	2596	7272-131/ 10312233	32	16

CONFIRMATION NO. 2344

CORRECTED FILING RECEIPT

167
FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES, CA 90071

OC000000032329750

Date Mailed: 09/29/2008

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)

Sukeyuki Shinotsuka, Sayama-shi, JAPAN;
Atsushi Nakajima, Sayama-shi, JAPAN;
Hironari Watanabe, Sayama-shi, JAPAN;

Assignment For Published Patent Application

Honda Giken Kogyo Kabushiki Kaisha

Power of Attorney: The patent practitioners associated with Customer Number 000167

Domestic Priority data as claimed by applicant

This application is a CON of PCT/JP02/03089 03/28/2002

Foreign Applications

JAPAN 2001170263 04/27/2001
JAPAN 2001330010 09/20/2001
JAPAN 2001385276 11/13/2001
JAPAN 200279681 02/14/2002

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 **US 10/693,204**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Output-compensating device and method of an image sensor

Preliminary Class

348

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

COPY MAILED

OCT 2 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Kevin T. Look	:	
Application No. 10/693,219	:	ON PETITION
Filed: October 24, 2003	:	
Atty Docket No. X-719-1D-3D US	:	

This is a decision on the petition, filed October 22, 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 October 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2818 for further processing of the request for continued examination under 37 CFR 1.114 filed October 22, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLE INC./BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Jerome R. Bellegarda	: DECISION ON REQUEST FOR
Patent Number	: 7643990	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/693,227	: 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 **1128** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
OCT 2 4 2006
OFFICE OF PETITIONS

Rissman Jobse Hendricks & Oliverio, LLP
One State Street
Suite 800
Boston, MA 02109

In re Application of	:	
Stephen A. Raymond et al.	:	
Application No. 10/693,232	:	DECISION ON PETITION
Filed: October 24, 2003	:	TO WITHDRAW
Attorney Docket No. B0033/7001C3	:	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 25, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **the assignee of this application has instructed us to transfer the file.....**, do not meet any the conditions set forth in 37 CFR 10.40 because the assignee has not intervened in accordance with 37 CFR 3.71 and no statement under 37 CFR 3.73(b) has been filed.

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

Also the attorneys and/or agents cannot be withdrawn using a customer number because the practitioners were not appointed by customer.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Donald R. Steinberg, Esq.**
Wilmer, Cutler, Pickering, Hale & Dorr, LLP
60 State Street
Boston, MA 02109

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RYAN KROMHOLZ & MANION, S.C.
POST OFFICE 26618
MILWAUKEE, WI 53226

COPY MAILED

FEB 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Lee Bolduc et al	:	
Application No. 10/693,255	:	DECISION ON PETITIONS
Filed: October 24, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 9494.18378-PROV FOR	:	AND UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions filed November 15, 2004, which is being treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

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

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

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

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

The instant application was filed on October 24, 2003 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

Additionally, the instant pending nonprovisional application was filed on October 24, 2003. Intermediate application number 10/271,334 was filed within twelve months of provisional Application No. 60/333,937, which was filed on November 28, 2001, for which priority is claimed.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

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

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

Any questions concerning this matter may be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to Technology Center Art Unit 3731 for appropriate action on the amendment submitted November 15, 2004, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Frances Hicks

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

Attachment: corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RYAN KROMHOLZ & MANION, S.C.
POST OFFICE 26618
MILWAUKEE, WI 53226

COPY MAILED

FEB 16 2005

COPY

OFFICE OF PETITIONS

In re Application of
Lee Bolduc et al
Application No. 10/693,255
Filed: October 24, 2003
Attorney Docket No. 9494.18378-PROV FOR

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3)
AND UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions filed November 15, 2004, which is being treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

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

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

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

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

The instant application was filed on October 24, 2003 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

Additionally, the instant pending nonprovisional application was filed on October 24, 2003. Intermediate application number 10/271,334 was filed within twelve months of provisional Application No. 60/333,937, which was filed on November 28, 2001, for which priority is claimed.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

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

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

Any questions concerning this matter may be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to Technology Center Art Unit 3731 for appropriate action on the amendment submitted November 15, 2004, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Frances Hicks

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

Attachment: corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 18 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

PHILIP A. DALTON
236 West Portal Avenue, No. 15
San Francisco CA 94127-1423

In re application of
Andrew J. Toti
Application No. 10/693,263
Filed: October 23, 2003
For: CONTROL ROD MECHANISM AND SYSTEM

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

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

The petition is **GRANTED**.

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

The evidence submitted with the petition is a declaration signed by Mr.Toti 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIP A. DALTON
236 WEST PORTAL AVENUE
NO. 15
SAN FRANCISCO, CA 94127-1423

COPY MAILED

JAN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Andrew J. Toli	:	
Application No. 10/693,263	:	DECISION ON PETITION
Filed: October 23, 2003	:	
Attorney Docket No. 50604	:	

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

The petition is **dismissed** as moot for the reason stated below.

A Notice of Abandonment was mailed on June 26, 2006 stating that this application is abandoned for failure to timely reply to the Office action of "9/19/06" [sic, 9/19/05]. However, the Notice of Abandonment was prematurely mailed and is hereby **vacated** for the following reason. A review of the file record discloses that a Notice Requiring Excess Claims Fees of $200 was mailed on April 7, 2006. The Notice set a period for reply of one (1) month or thirty (30) days, whichever was longer. It also stated that extensions of time pursuant to the provisions of 37 CFR 1.136(a) were available. Accordingly, a reply was due on or before May 7, 2006, or on or before October 7, 2006 with the appropriate extension of time obtained pursuant to the provisions of 37 CFR 1.136(a).

The present petition was filed on August 11, 2006, within four months of the Notice of April 7, 2006. As extensions of time under 37 CFR 1.136(a) were available at the time of submission of the present petition to revive, the petition was prematurely filed. Accordingly, the fee of $1,500 assessed to petitioner's deposit account for this petition was unnecessary and will be credited to petitioner's deposit account in due course. Further, as authorized in the "Reply to 04/07/2006 Notice," and as agreed to by petitioner herein in a conversation with the undersigned on January 18, 2007, the $1,590 four month extension of time fee due

at the time of filing the petition to revive will be charged to petitioner's deposit account.

Petitioner states that the Notice of April 7, 2006 requiring a $200 balance due for claim fees is believed to be in error, since the amendment mailed on February 21, 2006 (and received in the USPTO on February 23, 2006) did not add an independent claim, but did include a dependent claim, which increased the total number of claims from 5 to 6.

This application is being forwarded to Technology Center Art Unit 3682 for appropriate action on the reply received February 23, 2006 and for review of the requirement made in the April 7, 2006 Notice for a $200 claim fee. If the Technology Center deems the $200 claim fee required by the Notice of April 7, 2006 to have been made in error, this fee, which was submitted with this petition, should be refunded to petitioner's deposit account.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIP A. DALTON
236 WEST PORTAL AVENUE
NO. 15
SAN FRANCISCO, CA 94127-1423

COPY MAILED

JAN 25 2007

OFFICE OF PETITIONS

In re Application of :
Andrew J. Toli :
Application No. 10/693,263 : NOTICE
Filed: October 23, 2003 :
Attorney Docket No. 50604 :

This is a notice regarding your request filed July 8, 2005 for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate, absent further notification from a proper party of a change in status. *See* 37 CFR 1.27(c)(2).

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANNE M. LIA
APARTMENT 605
340 WEST 85TH STREET
NEW YORK, NY 10024-3800

COPY MAILED

JAN 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Anne M. Lia :
Application No. 10/693,266 : ON PETITION
Filed: October 24, 2003 :
For: PEPPERMINT ISOPROPYL ALCOHOL :

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

The petition is **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)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed January 28, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 29, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion 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; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (2) above.

As to item (2), the fee for a petition to revive under the unintentional standard of 37 CFR 1.137(b) for a small entity is $750.00. With the present petition, petitioner has only submitted

$685.00. Therefore, an additional $65.00 is required. Accordingly, a consideration on the merits of the present petition cannot be made until the $65.00 fee deficiency is submitted to the Office.

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 decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANNE M. LIA
APARTMENT 605
340 WEST 85TH STREET
NEW YORK, NY 10024-3800

COPY MAILED

MAR 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Anne M. Lia	:	
Application No. 10/693,266	:	ON PETITION
Filed: October 24, 2003	:	
For: PEPPERMINT ISOPROPYL ALCOHOL	:	

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

The petition is **GRANTED**.

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

This matter is being referred to Office of Initial Patent Examination for preexamination processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COLLEEN M. RAPHAEL
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

MAILED

MAY 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Brumfield et al.	:	DECISION ON PETITION
Application No. 10/693,311	:	TO WITHDRAW
Filed: October 24, 2003	:	FROM RECORD
Attorney Docket No. C02-0034-000	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 28, 2006.

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

A review of the file record indicates that on April 20, 2006 the power of attorney to Carr & Ferrell, LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: AT&T Legal Department – PK
Attn: Patent Docketing
One AT&T Way
Room 2A-207
Bedminster NJ 07921

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

COPY MAILED

DEC 3 1 2007

OFFICE OF PETITIONS

In re Application of :
Horai, et al. :
Application No. 10/693,314 : ON PETITION
Filed: October 24, 2003 :
Attorney Docket No. 890050.445 :

This is a decision on the petition, filed October 22, 2007, under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder.

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 1.183." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Petitioner asserts that all of the named inventors contributed to the conception of the claimed invention which is under rejection. However, only three of the four joint inventors, Horai, Fukuzawa, and Tsukamoto, have executed a declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to September 10, 2002.

Petitioner alleges that Inventor Hiroyuki Arioka cannot be located to sign the declaration under 37 CFR 1.131 and requests that the Office accept the previously filed joint declaration executed by less than all the joint inventors.

37 CFR 1.131(a) states,

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

The Office has stated the signature requirements can be waived in certain circumstances.

(1) The assignee or other party in interest can sign the affidavit or declaration if none of the inventors will sign the declaration. See MPEP 714.

(2) The affidavit or declaration can be signed by fewer than all the inventors if the other inventors are deceased, refuse to sign, or are unavailable.

Petitioner has failed to prove the non-signing inventor, Hiroyuki Arioka, cannot be located to sign the declaration.

While this is not a petition under 37 CFR 1.47(a), it is evaluated much the same way a petition under 37 CFR 1.47(a) is. When it is asserts that an inventor cannot be located to sign a declaration, a **showing of diligence** in attempting to locate him/her is required. The petition and supplemental declaration merely states that Mr. Arioka has resigned from TDK Corporation and cannot be located. What efforts were made to locate Mr. Arioka?

Petitioner should explain the efforts made to date to locate Mr. Arioka. Petitioner should probably engage in further efforts to locate Mr. Arioka. The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories; telegrams; and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made.

Documentary evidence that supports a finding that the non-signing inventor could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records would suffice.

The affidavit or declaration 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. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

If diligent search for Mr. Arioka results in his being located and he expressly refuses to sign a declaration under 37 CFR 1.131, then a statement from the person to whom that refusal was made should be made of record. If his refusal is in writing, the correspondence should be made of record.

Inquiries regarding this communication may be directed to the undersigned at (571) 272-3230.

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

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

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

COPY MAILED

JUN 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Horai, et al.	:	
Application No. 10/693,314	:	ON PETITION
Filed: October 24, 2003	:	
Attorney Docket No. 890050.445	:	

Papers filed on February 22, 2008 in reply to a decision, mailed December 31, 2007, dismissing applicants' petition under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder, included a Rule 131 declaration signed by the previously non-signing inventor, Hiroyuki Arioka, and the other joint inventors.

In view of the filing of a Rule 131 declaration signed by all joint inventors, the petition under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder is **dismissed as moot**.

After the mailing of this decision, the application will be forwarded to Technology Center G.A.U. 2627 for consideration of the Rule 131 declaration filed on February 22, 2008.

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

JUN 12 2006

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of	:
Per Johan Lundberget al	:
Serial No.: 10/693,317	: SUSPENSION OF ACTION
Filed: October 23, 2003	:
Attorney Docket No.: 1103326-0203	:

This is in response to the petition under 37 CFR 1.103, filed April 27, 2006, to suspend prosecution of the above identified application for six months.

The petition fee of $200.00 has been paid.

Applicants seek suspension of prosecution in this application for a period of six months in view of a pending appeal of a court decision in a great-great-grandparent case.

BACKGROUND

A non-Final rejection issued in this application on November 2, 2005, setting a three month shortened statutory period for reply. Applicants replied on April 27, 2006, including a three month request and fee for a three month extension of time, with this combined reply to the Office action and petition for suspension.

DISCUSSION

Initially it is to be noted that a petition must be presented as a separate paper (37 CFR 1.181) and not as part of the response to the Office action. However, applicants' combined response will be treated as both a response to the Office action and a petition. It is noted that the examiner mailed a Notice of Non-Compliant amendment to applicants on July 7, 2006. Thus there is an outstanding Office action to which applicants must reply.

37 CFR 1.103. Suspension of action.

(a) Suspension of action by the Office will be granted for good and sufficient cause and for a reasonable time specified upon petition by the applicant and, if such cause is not the fault of the Office, the payment of the fee set forth in ∋1.17(I). Action will not be suspended when a reply by applicant to an Office action is required.

M.P.E.P. 709 relates to suspension of action in an application. 37 CFR 1.103 permits the Office to suspend action upon petition by applicants for **good and sufficient cause** (emphasis added).

Applicants state that the decision in the Appeal and Cross-Appeal in the litigation of the great-great-grandparent application, PN 6,013,281, and holding of invalidity thereof is pertinent to the prosecution of this application, but give no details or reasoning as to why it is pertinent. Merely stating that a pending court decision is pertinent to the prosecution of an application without identifying the issues or reasons why such decision would impact the prosecution of an application does not provide a **showing** of good and sufficient cause. In addition there is now an outstanding Office action which prevents suspension of action in this application.

DECISION

The petition to suspend action is DENIED.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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.
10/693,317	10/23/2003	Per Johan Lundberg	1103326-0203	8231

7470 7590 09/15/2006

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER
SHEIKH, HUMERA N

ART UNIT	PAPER NUMBER
1615	

DATE MAILED: 09/15/2006

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 1 5 2006

WHITE & CASE, LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of	:
Per Johan Lundberget et al	:
Serial No.: 10/693,317	: SUSPENSION OF ACTION
Filed: October 23, 2003	:
Attorney Docket No.: 1103326-0203	:

This is in reply to the renewed petition under 37 CFR 1.103 to suspend action in this application at applicant's request for a period of six months, filed July 21, 2006.

BACKGROUND

Applicants filed a petition to suspend prosecution in this application on April 27, 2006, on the basis that a District Court decision being appealed to the Federal Circuit had held claims of similar scope invalid. That petition was denied on June 12, 2006, in view of the fact that there was an outstanding Office action – Notice of Non-Compliant Amendment – and that applicants had given insufficient information about the appealed court decision.

Applicants filed this renewed petition on July 21, 2006, on the basis that a response to the Non-Compliant Amendment notice had been filed on June 13, 2006, prior to receipt of the decision and there was no longer an outstanding Office action compelling a reply. The response has been received and accepted as proper. Applicants have also given some additional details as to the Court decision, specifically that the claims of the great-great-grandparent of this application have been held invalid over prior art and that the claims of this application are of similar scope to those claims and that the Court of Appeals for the Federal Circuit review of that decision will be of significant importance to the determination of patentability of the pending claims which are rejected over the same prior art.

DISCUSSION

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

Applicants' reasons for requesting suspension are now found to satisfy the requirements of 37 CFR 1.103.

DECISION

In view of the above the petition for suspension of action is **GRANTED** for a period of six months from the date of mailing of this decision.

Applicants are requested to notify the Office should a decision be received prior to the expiration of the period of suspension.

Should there be any questions with respect to this action, please contact the examiner or William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office general facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NEKTAR THERAPEUTICS
150 INDUSTRIAL ROAD
SAN CARLOS, CA 94070

COPY MAILED

JUL 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Patton, et al. : ON PETITION
Application No. 10/693,318 :
Receipt Date: October 24, 2003 :
Docket No.: 0001.13 :

This is a decision on the "Petition" filed March 14, 2005, wherein petitioners request the above-identified application be accorded a filing date of October 24, 2003 with page 20 of the specification made part of the application.

The petition is **DISMISSED**.

The application was received by the USPTO on October 24, 2003. On February 24, 2005, a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") was mailed indicating that the application had been accorded a filing date but that Page 20 of the specification appeared to have been omitted from the application as filed.

The Notice permitted applicant to either: (1) promptly establish prior receipt in the PTO of the omitted items 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 items in question 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 and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioners argue that the application as filed included Page 20 of the specification and has included as proof of mailing and

proof of receipt of Page 20 of the specification a copy of an return postcard receipt date stamped by the Office indicating the receipt of: a one page of oath or declaration; a one page Express Mail Certificate; a two page data sheet; and 22 pages of specification, claims, and abstract.

The argument and evidence submitted by petitioners have been considered, but are not persuasive. The USPTO file is the official record of the papers originally filed in this application. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

Review of the official application reveals that, as indicated on the postcard receipt, the Office did in fact receive a one page of oath or declaration; a one page Express Mail Certificate; a two page data sheet; and 22 pages of specification, claims, and abstract. Page 20 of the specification is not among the papers received. Regarding the specification, claims, and abstract, the official application file contains 20 pages of specification numbered pages 1-19 and page 21, one page of abstract, and one page of claims (22 pages in total). Thus, the date stamped return receipt postcard does establish that the Office received 22 pages of specification, claims, and abstract, however the postcard does not serve as prima facie evidence of receipt of page 20 of the specification.

Any petition for reconsideration of this decision must be submitted within **TWO (2) MONTHS** of the mail date of this decision. The time period for requesting reconsideration may not be extended pursuant to 37 CFR 1.136. (37 CFR 1.181(f))

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 Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street

Alexandria, VA 22314

As the relief requested by petitioner has been dismissed, petitioners are advised that the instant application is being returned to the Office of Initial Patent Examination with a filing date of October 24, 2003 without entry of page 20 as part of the original disclosure.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 12 2004

Paper No. 080404

HELLER EHRMAN WHITE & MCAULIFFE LLP
275 MIDDLEFIELD AVENUE
MENLO PARK, CA 94025-3506

In re Application of:	:	
THOMAS D. STAHL	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/693,329	:	
Filed: October 23, 2003	:	
Attorney Docket No.: **40620-0002**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed January 27, 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 Dickinson Wright PLLC was filed on June 25, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

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

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

cc: DICKINSON WRIGHT PLLC
1901 L ST., NW, SUITE 800
WASHINGTON, DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SAMUELS, GAUTHIER & STEVENS, LLP
225 FRANKLIN STREET, SUITE 3300
BOSTON, MA 02110

COPY MAILED

JAN 1 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Lucht, Brett	:	
Application No. 10/693,335	:	ON PETITION
Filed: October 24, 2003	:	
Attorney Docket No. 5156CON	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 5, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 26, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 27, 2004. A Notice of Abandonment was mailed on November 19, 2004.

On December 8, 2004, patent fees were increased. The additional claims fee, required by the Notice, is now $75.00. The small entity petition fee is now $750.00. Petitioner only submitted $685.00 towards payment of the petition fee. Accordingly, an additional $140.00 will be charged to petitioner's deposit account as authorized for the difference.

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
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

Date : July 23, 2007

Patent No. :7,131,482
Inventor(s) :Mark Vincent, et al.
Issued :November 7, 2006
Title :DISTRIBUTOR DEVICE FOR USE IN METAL CASTING
Doc./File No. :7131482

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction.

Review of the application file has revealed the omission of the Foreign Priority data on the printed patent as a result of applicant's failure to fully comply with 35 U.S.C. 119, in that conditional requirements were not met. Applicant's attention is directed to MPEP 201.14(a), 37 CFR 1.17(i).

In view of the forgoing, applicant's request in this matter is hereby denied.

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

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

Steven M. Hass, Esq.
Fay Sharpe, LLP
1100 Superior Ave.m,
7th Flr.
Cleveland OH 4114

CBN/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FAY SHARPE LLP
1228 EUCLID AVENUE, 5TH FLOOR
THE HALLE BUILDING
CLEVELAND, OH 44114-1843

RECEIVED
DEC 19 2008
OFFICE OF PETITIONS

In re Patent No. 7,131,482
Issue Date: November 7, 2006
Application No. 10/693,351
Filed: October 24, 2003
Attorney Docket No. UDLZ2 00022-2

DECISION ON PETITION UNDER 37 CFR 1.55(c) AND REQUEST FOR CERTIFICATE OF CORRECTION

This is a decision on the petition under 37 CFR 1.55(c), filed July 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to prior-filed foreign Great Britain Application No. GB 9918350.1, filed August 5, 1999.

The petition is **GRANTED**.

This instant application was filed on October 24, 2003. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.55(c), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed foreign application after issuance of the application into a patent. See MPEP 1481. A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

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

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

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed foreign application. A determination that applicant is entitled to claim benefit of the prior filed application will be made by the Examiner prior to the mailing of a certificate of correction.

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

Any inquiries directly pertaining to this matter may be directed to Irvin Dingle at (571) 272-3210.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.55(c).

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

cc: Fay Sharpe LLP
1100 Superior Avenue Seventh Floor
Cleveland, OH 44114

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
10/693,351	10/24/2003	1725	1592	UDLZ 2 00022-2	24	3

CONFIRMATION NO. 2709

CORRECTED FILING RECEIPT

27885
Fay Sharpe LLP
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

OC000000033584841

Date Mailed: 12/19/2008

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 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)

Mark Vincent, Leighton Buzzard, UNITED KINGDOM;
Sylvain Tremblay, Jonquiere, CANADA;

Assignment For Published Patent Application

Pyrotek Engineering Materials Limited

Power of Attorney:
James McKee--26482
Steven Haas--37841

Domestic Priority data as claimed by applicant

This application is a CON of 10/048,695 07/19/2002 PAT 7,036,555

Foreign Applications
UNITED KINGDOM 9918350.1 08/05/1999

If Required, Foreign Filing License Granted: 01/26/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/693,351**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

DISTRIBUTOR DEVICE FOR USE IN METAL CASTING

Preliminary Class

164

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

Paper No. None

COPY MAILED

FEB 14 2005

OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

In re Application of
Ashish Shah
Application No. 10/693,362
Filing Date: October 24, 2003
Attorney Docket No. MSFT-2846 / 306722.01
Title: SYSTEMS AND METHODS FOR THE IMPLEMENTATION OF A SYNCHRONIZATION SCHEMAS FOR UNITS OF INFORMATION MANAGEABLE BY A HARDWARE/SOFTWARE INTERFACE SYSTEM

DECISION ON PETITION UNDER 37 C.F.R. §1.10(c)

This is a decision on the petition under 37 C.F.R. §1.10(c), filed September 9, 2004, requesting the according of a filing date of October 24, 2003 to application number 10/693,362.

The application was deposited on October 24, 2003. Shortly thereafter, the Office mailed a filing receipt, indicating that application number 10/693,362 had been accorded a filing date of October 23, 2003.

With the instant petition, Petitioner has included a copy of the Express Mail label number EL99798091US[1].

Petitioner has alleged that the application was deposited on October 24, 2003, and the Patent Office has incorrectly assigned a filing date of October 23, 2003 to the instant application. Petitioner has included a copy of the Express Mail label, and it is noted that it bears a "date-in" of October 24, 2003.

1 The Utility Patent Application Transmittal sheet has been located in the electronic file, and it is noted that it contains this same Express Mail label number.

A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. A check of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) was also inconclusive, in that it stated that the information pertaining to this Express Mail label number is stored off-line. A copy of the latter search result is enclosed.

Although the application received a filing date of October 23, 2003, the evidence is convincing that the application papers were filed on October 24, 2003, and the Patent Office assigned the incorrect date to the application. Therefore, the application was entitled to a filing date of October 24, 2003.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 24, 2003, as well as the mailing of a corrected filing receipt. Petitioner has also submitted a petition fee. There is no fee associated with the filing of a petition under this section of the C.F.R. As such, the petition fee will be refunded to Petitioner's Deposit Account, as authorized in the petition.

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

Encl.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,362	10/24/2003	Ashish Shah	MSFT-2846 / 306722.01	2600

27488 7590 12/27/2007
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER
FEARER, MARK D

ART UNIT	PAPER NUMBER
2143	

MAIL DATE	DELIVERY MODE
12/27/2007	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

DEC 27 2007

TECHNOLOGY CENTER 2100

Timothy B. Scull
Merchant & Gould (Microsoft)
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of:
Ashish SHAH
Appl. No.: 10/693,362
Filed: October 24, 2003
For: SYSTEMS AND METHODS FOR THE IMPLEMENTATION OF A SYNCHRONIZATION SCHEMAS FOR 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 11 December 2007, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on 11 December 2007 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 11 December 2007 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DIONNA O. PARKER
1021-31ST ST.
NEWPORT NEWS VA 23605

COPY MAILED
MAY 3 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Parker	:	
Application No. 10/693,385	:	ON PETITION
Filed: October 27, 2003	:	
Attorney Docket No.: n/a	:	

This is a decision on the communications filed April 20, and May 8, 2006, and two communications dated May 2, 2006 addressed to the Commissioner of Patents, which collectively are being treated as (1) a petition to withdraw the holding of abandonment, and (2) a request for information about reviving an abandoned application.

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

The request for information on revival is answered in more detail below.

With respect to withdrawal of the holding of abandonment:

This application became abandoned for failure to properly reply within the meaning of 37 CFR 1.111 and 35 U.S.C. § 133 to the non final Office action of September 8, 2005, which set a shortened statutory period for reply of three months. As a reply was not filed, and no extensions of time were obtained, this application became abandoned at midnight on December 8, 2005. A Notice of Abandonment was mailed March 24, 2006.

Petitioner requests that the holding of abandonment be withdrawn in that, upon her receipt of the Office action of September 8, 2005, she communicated with the examiner to get clarification of the action summary but was thwarted in that she was unable to understand the examiner in charge of this application. She thereupon contacted a Mr. Andrew James Sr, known to petitioner as a registered practitioner and also for his work on the Inventor's Assistence Center help desk, who, however, did not further communicate with applicant.

While the entire record has been carefully considered, the record fails to provide an adequate basis for withdrawing the holding of abandonment. The applicable statute reads as follows:

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 Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

The record shows that the Office action of September 8, 2005 was mailed to applicant at the correspondence address of record specified by applicant. The record further shows that applicant admits having received the Office action, which informed applicant on the summary

page that a reply was to be filed within the 3 month shortened period that began September 8, 2005, or the case would be regarded as abandoned. The Office action indicated that extensions of time under 37 CFR 1.136(a) were available up to a maximum extendable period of 6 months. The Office action contained a written explanation of the examiner's findings that was grammatical and reasonably informative. It is also noted that the statute clearly permits the USPTO to set a shortened statutory period of less than 6 months to reply to any Office action, as was done here.

Since petitioner admits, and in any event the record shows, that no reply was filed within the time period set, there can be no doubt that this application is abandoned for failure to prosecute, as expressly set forth in the statute. That is, abandonment is automatic under the law if a reply is not filed within the time period originally set or as extended. Since abandonment is automatic under the circumstances of this case, the USPTO simply has no discretion to hold that this case is not abandoned, or withdraw the holding of abandonment, regardless of any allegedly extenuating circumstances that applicant puts forward.

While these circumstances might be relevant to a petition to revive, they have no bearing on, and cannot overcome, the fact that this application became abandoned because no reply was filed. An applicant who does not appoint a registered practitioner to prosecute his or her application is responsible for personally knowing all aspects of the prosecution of his or her application, and is responsible for complying with all of the patent laws, regulations and procedures, and assumes the risk and consequences of not knowing, or complying, with the patent laws, regulations, and procedures before the USPTO. Petitioner directed that the mail from the USPTO was to come to her address, and since she did not appoint a registered practitioner to prosecute this case on her behalf, she assumed the responsibility for replying.

General Information

The comments about petitioner trying to contact a Mr. Andrew James Sr. are noted. Petitioner is advised that Mr. James, Sr is a retired, *former* USPTO employee, who is also a registered patent agent. Mr. James, Sr. does **not** now and did not at the time of the matters referred to in the petition work for the USPTO; rather he works for a private contractor who has contracted with the USPTO to supply non-USPTO personnel to answer the telephones at the USPTO Inventor's Assistance Center. Neither petitioner nor any other person may contact or initiate a contact with a registered practitioner through the USPTO telephones or by any other USPTO communication media; such is a separate transaction between the party and the registered representative that must be kept totally distinct from any involvement with the USPTO. Mr. Andrew James Jr. *is* a current USPTO employee but one who has no relationship with this application.

Petitioner may be unaware that personnel employed by the USPTO are prohibited from aiding petitioner or any other person in the prosecution of an application. See 37 CFR 11.10 (d) ("An employee of the Office may not prosecute or aid in any manner in the prosecution of any patent application before the Office.") While it is unfortunate that petitioner had difficulty understanding the examiner, petitioner's attention is directed to the last page of the Office action which also suggested as a point of contact the examiner's supervisor, at the given telephone number.

The format and wording of the papers herein appear to be that of an inexperienced applicant. In further prosecution, the services of a registered attorney or agent are strongly recommended, especially in view of the complexities of the patent laws and regulations. As noted above, the USPTO cannot prosecute this application on behalf of petitioner; *e.g.*, prepare a proper reply for applicant. Likewise, the USPTO cannot recommend the services of a particular attorney or agent to the exclusion of any other. Petitioner may wish to consult her local telephone directory or can obtain a listing of registered practitioners in her area by accessing the USPTO web site at: www.uspto.gov, and then click on "Patents;" and on that page under the caption "Resources;"

click on "Locate Registered Attorneys and Agents." Petitioner may also obtain general information and limited assistance (not advice) from the Inventor's Assistance Center at 1-800-786-9199. There is also an entire section of the USPTO web site dedicated to providing information to independent inventors: *http://www.uspto.gov/web/offices/com/iip/index.htm*.

Petitioner should note that each paper filed with the USPTO directed to an application must identify on the top page in a conspicuous location, the application number and filing date, and that if is not performed that communication will be returned. See 37 CFR 1.5(a). Further, applicant is requested to refrain from returning to the USPTO multiple copies of papers already of record in this application, and refrain from multiple mailings of various papers to the Board of Patent Appeals and Interferences ("Board"), and various personnel at the Board as they simply have no jurisdiction of this case at this time. The Board, by law, only hears appeals of twice or finally rejected claims, The procedural matters mentioned in the petition are simply not subject matter for the Board to consider. See MPEP 1201.

Information Pertaining to Revival

Petitioner is advised that the abandonment of this application may only be overcome by filing a petition to revive under 37 CFR 1.137. A petition to revive may be appropriate if applicant's failure to reply was either unavoidable or unintentional, as set forth below.

The Manual of Patent Examining Procedure ("MPEP"), Section 711.03(c), provides a general discussion of the procedures for filing a petition to revive an abandoned application, as well as petition forms for both the unavoidable delay and unintentional delay petitions. These forms, and the entire MPEP are also available from the USPTO web site A copy of this section is forwarded herewith for your convenience.

General information pertaining to petitions to revive may be obtained from the Office of Petitions Help Desk during normal business hours at (571) 272-3282, and should not be made or addressed to the undersigned. The Office of Petitions cannot advise petitioner as to which of the two options below should be chosen. It can be stated that a petition to revive under the unintentional standard, as it is less stringent than the other, is more likely to be granted. Petitioner should carefully read the enclosed section of the MPEP for information about to the two different standards for revival.

A. Failure to reply was unavoidable.

A petition to revive an abandoned application on the grounds that the failure to reply was unavoidable (37 CFR 1.137(a)) must be accompanied by: (1) the required reply; (2) 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; (3) any terminal disclaimer required pursuant to 37 CFR 1.137(c); and (4) the $250 petition fee as set forth in 37 CFR 1.17(l). No consideration to the substance of a petition will be given until this fee is received (see infra).

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable, as well as inadvertent. This must include: (1) a satisfactory showing that the cause of the delay resulting in failure to reply in timely fashion to the Office action was unavoidable; and (2) a satisfactory showing that the cause of any delay during the time period between abandonment and filing of the petition to revive was also unavoidable. Petitioner is advised that, while this standard is less expensive than that mentioned below, it is also more stringent due to the showing requirement, and is not easily met. This is explained in MPEP 711.03(c).

B. Failure to reply was unintentional.

A petition to revive an abandoned application on the grounds that the failure to reply was unintentional (37 CFR 1.137(b)) must be accompanied by: (1) the required reply; (2) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; (3) any terminal disclaimer required pursuant to 37 CFR 1.137(c) (not needed in this case); and (4) the $750 petition fee as set forth in 37 CFR 1.17(m).

Petitioner should note that a petition filed under either standard noted above must also be accompanied by the proposed response to the Office action of September 8, 2005, to continue prosecution. If petitioner cannot prepare the reply, a registered practitioner should be obtained. Again, the USPTO can not prosecute this application on behalf of applicant, nor aid in the selection of a registered practitioner

Petitioner may also seek limited assistance (not advice) from the USPTO Office of Petitions Help Desk at (571) 272-3282, and additional information, and forms, from the USPTO web site at: *www.uspto.gov.* Again, it is strongly urged that petitioner obtain the services of a practitioner registered to practice before the USPTO.

Telephone inquiries related to this decision only should be directed to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions

Enclosure: MPEP 711.03(c).

Go to **MPEP - Table of Contents**

Notice regarding Section 508 of the **Workforce Investment Act of 1998**. Section 508 of the Workforce Investment Act of 1998 requires all United States Federal Agencies with websites to make them accessible to individuals with disabilities. At this time, the MPEP [HTML] files below do not meet all standards for web accessibility. Until changes can be made to make them fully accessible to individuals with disabilities, the USPTO is providing access assistance via telephone. MPEP Interim Accessibility Contact: 571-272-8813.

browse before

711.03(c) Petitions Relating to Abandonment [R-3] - 700 Examination of Applications

711.03(c) Petitions Relating to Abandonment [R-3]

37 CFR 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.

---

37 CFR 1.137 Revival of abandoned application, terminated reexamination proceeding, or lapsed patent.

(a) *Unavoidable.* If the delay in reply by applicant or patent owner was unavoidable, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination proceeding terminated under §§ **1.550(d)** or **1.957(b)** or (c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § **1.17(l)**;

(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

(4) Any terminal disclaimer (and fee as set forth in § **1.20(d)**) required pursuant to paragraph (d) of this section.

(b) *Unintentional.* If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination proceeding terminated under §§ **1.550(d)** or **1.957(b)** or (c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § **1.17(m)**;

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

(4) Any terminal disclaimer (and fee as set forth in § **1.20(d)**) required pursuant to paragraph (d) of this section.

(c) *Reply.* 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 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.

(d) *Terminal disclaimer.*

(1) Any petition to revive pursuant to this section in a design application must be accompanied by a terminal disclaimer and fee as set forth in § **1.321** dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. Any petition to revive pursuant to this section in either a utility or plant application filed before June 8, 1995, must be accompanied by a terminal disclaimer and fee as set forth in § **1.321** dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the lesser of:

(i) The period of abandonment of the application; or

(ii) The period extending beyond twenty years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. **120**, **121**, or 365(c), from the date on which the earliest such application was filed.

(2) Any terminal disclaimer pursuant to paragraph (d)(1) of this section must also apply to any patent granted on a continuing utility or plant application filed before June 8, 1995, or a continuing design application, that contains a specific reference under 35 U.S.C. **120**, **121**, or **365(c)** to the application for which revival is sought.

**>

(3) The provisions of paragraph (d)(1) of this section do not apply to applications for which revival is sought solely for purposes of copendency with a utility or plant application filed on or after June 8, 1995, to lapsed patents, to reissue applications, or to reexamination proceedings.<

(e) *Request for reconsideration*. Any request for reconsideration or review of a decision refusing to revive an abandoned application, a terminated reexamination proceeding, or lapsed patent upon petition filed pursuant to this section, to be considered timely, must be filed within two months of the decision refusing to revive or within such time as set in the decision. Unless a decision indicates otherwise, this time period may be extended under:

(1) The provisions of § **1.136** for an abandoned application or lapsed patent;

(2) The provisions of § **1.550(c)** for a terminated *ex parte* reexamination proceeding filed under § 1.510; or

(3) The provisions of § **1.956** for a terminated *inter partes* reexamination proceeding filed under § **1.913**.

(f) *Abandonment for failure to notify the Office of a foreign filing*: A nonprovisional application abandoned pursuant to 35 U.S.C. **122(b)(2)(B)(iii)** for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing, may be revived only pursuant to paragraph (b) of this section. The reply requirement of paragraph (c) of this section is met by the notification of such filing in a foreign country or under a multinational treaty, but the filing of a petition under this section will not operate to stay any period for reply that may be running against the application.

(g) *Provisional applications:* A provisional application, abandoned for failure to timely respond to an Office requirement, may be revived pursuant to this section. Subject to the provisions of 35 U.S.C. **119(e)(3)** and **§ 1.7(b)**, a provisional application will not be regarded as pending after twelve months from its filing date under any circumstances.

---

37 CFR 1.181 Petition to the Director.

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

**>

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § **41.3** of this title.<

*****

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

*****

I. PETITION TO WITHDRAW HOLDING OF ABANDONMENT

A petition to revive an abandoned application (discussed below) should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under **37 CFR 1.181(a)** requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under **37 CFR 1.137** (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under **37 CFR 1.137(a)** based on unavoidable delay; and (2) a petition under **37 CFR 1.137(b)** based on unintentional delay.

A. *Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action*

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (**35 U.S.C. 151**) or for failure to prosecute (**35 U.S.C. 133**).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 CFR **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 CFR **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 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**).

>37 CFR **1.8**(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR **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**.<

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 CFR **1.181**(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR **1.181**) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR **1.181** (f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR **1.181**(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

1. Design Applications, Utility Applications Filed Before June 8, 1995, and Plant Applications Filed Before June 8, 1995

(a) Applicant Receives Notice of Abandonment

In any design application, any utility application filed before June 8, 1995, or any plant application filed before June 8, 1995, if applicant receives a notice of abandonment, any petition to withdraw the holding of abandonment that is not filed within two months of the mail date of the notice of abandonment will **not** (absent extraordinary circumstances) be treated on its merits **unless** accompanied by a terminal disclaimer under 37 CFR **1.321**(a), and the required fee set forth in 37 CFR **1.20**(d). The period to be disclaimed is the terminal part of the term of any patent granted on the application, or of any patent granted on any utility or plant application that claims the benefit of the filing date of the application under 35 U.S.C. **120**, **121**, or **365**(c), equivalent to the period between:

(A) the date that is two months after the mail date of the notice of abandonment; and

(B) the filing date of a grantable petition to withdraw the holding of abandonment.

Form PTO/SB/62 is the appropriate terminal disclaimer to be used.

(b) Applicant Does Not Receive Notice of Abandonment

In any design application, any utility application filed before June 8, 1995, or any plant application filed before June 8, 1995, if applicant never receives the notice of abandonment, any petition to withdraw the holding of abandonment that is not filed within twelve months from the date of applicant's filing (or date of submission, if the correspondence was never received by the Office) of correspondence with the Office for which further action by the Office can reasonably be expected, will **not** (absent extraordinary circumstances) be treated on its merit **unless** accompanied by a terminal disclaimer under 37 CFR **1.321**(a), and the required fee set forth in 37 CFR **1.20**(d). The period to be disclaimed is the terminal part of the term of any patent granted thereon, or of any patent granted on any utility or plant application that claims the benefit of the filing date of the application under 35 U.S.C. **120**, **121**, or **365**(c), equivalent to the period between:

(A) the date that is twelve months from the date of applicant's filing or submission of correspondence with the Office, for which further action by the Office can reasonably be expected; and

(B) the filing date of a grantable petition to withdraw the holding of abandonment.

Form PTO/SB/62 is the appropriate terminal disclaimer to be used.

2. Utility and Plant Applications Filed on or After June 8, 1995 but Before May 29, 2000

In utility and plant applications filed on or after June 8, 1995, but before May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. However, the Office of Patent Legal Administration (OPLA) must be consulted in such situations if the holding of abandonment involves a period during: (A) appellate review by the Board of Patent Appeals and Interferences; (B) an interference proceeding under 35 U.S.C. **135**(a), including any suspension due to an interference proceeding; or (C) which the application was in a sealed condition or prosecution was suspended due to a secrecy order under 35 U.S.C. **181**. This is because it is necessary to effect (if appropriate) a reduction of patent term extension under the "due diligence" provisions of 37 CFR **1.701**(d)(2).

3. Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 CFR **1.704**(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 CFR **1.704**(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 CFR **1.181** (f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 CFR **1.137**(a) or (b) (discussed below).

II. PETITIONS TO REVIVE AN ABANDONED APPLICATION, OR ACCEPT LATE PAYMENT OF ISSUE FEE

37 CFR 1.137 provides for the revival of abandoned applications and lapsed patents for the failure:

(A) to timely reply to an Office requirement in a provisional application;

(B) to timely prosecute in a nonprovisional application;

(C) to timely pay the issue fee for a design application;

(D) to timely pay the issue fee for a utility or plant application; and

(E) to timely pay any outstanding balance of the issue fee (lapsed patents).

A petition under **37 CFR 1.137(a)** requires:

(A) the required reply, unless previously filed;

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

(C) a showing to the satisfaction of the Director of the USPTO 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

(D) any terminal disclaimer required pursuant to **37 CFR 1.137(d)**.

A petition under **37 CFR 1.137(b)** requires:

(A) the required reply, unless previously filed;

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

(C) 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

(D) any terminal disclaimer required pursuant to **37 CFR 1.137(d)**.

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

A. Reply Requirement

Unlike a petition to withdraw the holding of abandonment, a petition to revive under **37 CFR 1.137** must be accompanied by, *inter alia*, the required reply. See *Ex parte Richardson*, 1906 Dec. Comm'r Pat. 83 (1905) ("This Office has no authority to revive a case upon which no action has been taken within [the period for reply], but merely has authority to determine after an action is taken whether the delay in presenting it was unavoidable."). Generally, the required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed. A petition for an extension of time under 37 CFR **1.136** and a fee for such an extension of time are not required to be included with the reply.

37 CFR **1.137(c)** applies to the reply requirement for petitions under 37 CFR **1.137(a)** and (b). 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 (RCE) in compliance with 37 CFR **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 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. See below for more details on the reply requirement in specific situations of abandonment.

1. Abandonment for Failure To Pay the Issue Fee or Publication Fee

While the revival of applications abandoned for failure to timely prosecute and for failure to timely pay the issue fee are incorporated together in **37 CFR 1.137**, the statutory provisions for the revival of an application abandoned for failure to timely prosecute and for failure to timely submit the issue fee are mutually exclusive. See *Brenner v. Ebbert*, 398 F.2d 762, 157 USPQ 609 (D.C. Cir. 1968). **35 U.S.C. 151** authorizes the acceptance of a delayed payment of the issue fee, if the issue fee "is submitted ... and the delay in payment is shown to have been unavoidable." **35 U.S.C. 41(a)**(7) likewise authorizes the acceptance of an "unintentionally delayed payment of the fee for issuing each patent." Thus, **35 U.S.C. 41(a)**(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. Therefore, the filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to pay the issue fee or any portion thereof.

The Notice of Allowance requires the timely payment of the issue fee in effect on the date of its mailing to avoid abandonment of the application. In instances in which there is an increase in the issue fee by the time of payment of the issue fee required in the Notice of Allowance, the Office will mail a notice requiring payment of the balance of the issue fee then in effect. See *In re Mills*, 12 USPQ2d 1847, 1848 (Comm'r Pat. 1989). The phrase "for failure to pay the issue fee or any portion thereof" applies to those instances in which the applicant fails to pay either the issue fee required in the Notice of Allowance or the balance of the issue fee required in a subsequent notice. In such instances, the reply must be the issue fee then in effect, if no portion of the issue fee was previously submitted, or any outstanding balance of the issue fee then in effect, if a portion of the issue fee was previously submitted.

In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. Even if an application abandoned for failure to pay the publication fee is being revived solely for purposes of continuity with a continuing application, the petition to revive under 37 CFR **1.137** must include payment of the publication fee.

2. Abandonment for Failure To Reply in a Nonprovisional Application

(a) Abandonment for Failure To Reply to a Non-Final Action

The required reply to a non-final action in a nonprovisional application abandoned for failure to prosecute may be either:

(A) an argument or an amendment under 37 CFR **1.111**;

(B) the filing of a continuing application under 37 CFR **1.53(b)** (or a continued prosecution application (CPA) under 37 CFR **1.53(d)** if the application is a design application).

The grant of a petition under 37 CFR **1.137** is not a determination that any reply under 37 CFR **1.111** is complete. Where the proposed reply is to a non-final Office action, the petition may be granted if the reply appears to be *bona fide*. After revival of the application, the patent examiner may, upon more detailed review, determine that the reply is lacking in some respect. In this limited situation, the patent examiner should send out a letter giving a 1-month shortened statutory period under **37 CFR 1.135(c)** for correction of the error or omission. Extensions of time under 37 CFR **1.136(a)** are permitted. If applicant does not correct the omission within the time period set in the letter (including any extension), the application is again abandoned.

(b) Abandonment for Failure To Reply to a Final Action

A reply under 37 CFR **1.113** to a final action must include a request for continued examination (RCE) under 37 CFR **1.114** or cancellation of, or appeal from the rejection of, each claim so rejected. Accordingly, in a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(A) a Notice of Appeal and appeal fee;

(B) an amendment under 37 CFR **1.116** that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance;

(C) the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR **1.111** and the requisite fee) under 37 CFR **1.114** for utility or plant applications filed on or after June 8, 1995 (see paragraph **(d)** below); or

(D) the filing of a continuing application under 37 CFR **1.53(b)** (or a CPA under 37 CFR **1.53(d)** if the application is a design application).

When a notice of appeal is the reply filed pursuant to 37 CFR **1.137(a)(1)** or **1.137(b)(1)**, the time period under 37 CFR ***>41.37<** for filing the appeal brief will be set by the Director of the USPTO in the decision granting the petition.

An application subject to a final action in which a proposed amendment under 37 CFR **1.116** is filed as the required reply will normally be routed by the Office of Petitions to the Technology Center (TC) to determine whether a proposed amendment places the application in condition for allowance prior to granting any petition to revive such application. The examiner is instructed that if the reply places the application in condition for allowance, the examiner should write in the margin of the reply "OK to enter upon revival." For Image File Wrapper (IFW) processing, see IFW Manual. If the petition is otherwise grantable and the examiner indicates that the reply places the application in condition for allowance, the petition will be granted. If, on the other hand, the reply would not place the application in condition for allowance, the examiner is instructed to complete form PTOL-303 and return the form to the Office of Petitions with the application. *>Form< PTOL-303 should not be mailed to the applicant by the examiner. In this situation, the Office of Petitions will not grant the petition. A copy of the form PTOL-303 is marked with the notation "Courtesy Copy" by the Office of Petitions. The courtesy copy is sent as an attachment with the decision on the petition. The advisory form PTOL-303 merely serves as an advisory notice to the Office of Petitions regarding the decision of the examiner on the amendment after final rejection. For Image File Wrapper (IFW) processing, see IFW Manual.

(c) Abandonment for Failure To File an Appeal Brief

In those situations where abandonment occurred because of the failure to file an appeal brief, the reply required pursuant to 37 CFR **1.137(a)(1)** or **1.137(b)(1)** must be either:

(A) an appeal brief in compliance with 37 CFR *>41.37 **(c)<** and appeal brief fee;

(B) the filing of an RCE accompanied by a submission and the requisite fee in compliance with 37 CFR **1.114** for utility or plant applications filed on or after June 8, 1995 (see paragraph **(d)** below); or

(C) the filing of a continuing application under 37 CFR **1.53(b)** (or a CPA under 37 CFR **1.53(d)** if the application is a design application).

(d) Filing an RCE as the Required Reply

For utility or plant applications abandoned for failure to reply to a final Office action or for failure to file an appeal brief, the required reply may be the filing of an RCE accompanied by a submission and the requisite fee. When an RCE is the reply filed pursuant to 37 CFR **1.137(a)(1)** or **1.137(b)(1)**

to revive such an application, the submission accompanying the RCE must be a reply responsive within the meaning of 37 CFR **1.111** to the last Office action. Consideration of whether the submission is responsive within the meaning of 37 CFR **1.111** to the last Office action is done without factoring in the "final" status of such action. The submission may be a previously filed amendment after final or a statement that incorporates by reference the arguments in a previously filed appeal or reply brief. See MPEP § **706.07(h)**, paragraph II.

The petition may be granted if the submission appears to be a *bona fide* attempt to provide a complete reply to the last Office action. After revival of the application, the examiner may, upon a more detailed review, determine that the reply is lacking in some respect. In this limited situation, the examiner should send out a letter giving a 1-month shortened statutory period under 37 CFR **1.135 (c)** for correction of the error or omission. Extensions of time under 37 CFR **1.136(a)** are permitted. If the applicant does not correct the omission within the time period set in the letter (including any extension), the application is again abandoned.

(e) A Continuing Application or RCE May Be Required by the Office

The Office may require the filing of a continuing application or an RCE (if the prosecution prior to abandonment was closed) (or request for further examination pursuant to **37 CFR 1.129(a)**) to meet the reply requirement of **37 CFR 1.137(a)**(1) (or **37 CFR 1.137(b)**(1)) where, under the circumstances of the application, treating a reply under **37 CFR 1.111** or 1.113 would place an inordinate burden on the Office. Exemplary circumstances of when treating a reply under **37 CFR 1.111** or 1.113 may place an inordinate burden on the Office are where:

(A) an application has been abandoned for an inordinate period of time;

(B) an application file contains multiple or conflicting replies to the last Office action; or

(C) the reply or replies submitted under **37 CFR 1.137(a)**(1) (or **37 CFR 1.137(b)**(1)) are questionable as to compliance with **37 CFR 1.111** or 1.113.

3. Abandonment for Failure To Notify the Office of a Foreign Filing After the Submission of a Non-Publication Request

If an applicant makes a nonpublication request upon filing with the appropriate certifications, the utility or plant application filed on or after November 29, 2000 will not be published under 35 U.S.C. **122(b)(1)**. See 35 U.S.C. **122(b)(2)(B)(i)**. If an applicant makes a nonpublication request and then rescinds, pursuant to 35 U.S.C. **122**(b)(2)(B)(ii), the nonpublication request before or on the date a counterpart application is filed in a foreign country, or under a multilateral international agreement, that requires eighteen-month publication, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request were never made. See MPEP § **1123** and § **1124**. An applicant who has made a nonpublication request, but who subsequently files an application directed to the invention disclosed in the U.S. application in a foreign country, or under a multilateral international agreement, that requires eighteen-month publication before the nonpublication request is rescinded, must, in addition to the rescission, notify the Office of such filing within forty-five days after the date of such filing. The requirement in 35 U.S.C. **122**(b)(2)(B)(iii) for notice of the foreign filing is in addition to any rescission of the nonpublication request under 35 U.S.C. **122**(b)(2)(B)(ii). If an applicant files a counterpart application in a foreign country after having filed an application in the USPTO with a nonpublication request, filing a rescission of the nonpublication request under 35 U.S.C. **122**(b)(2)(B)(ii) without also providing a notice of the foreign filing in a timely manner will result in the abandonment of the U.S. application under 35 U.S.C. **122** (b)(2)(B)(iii). 35 U.S.C. **122(b)(2)(B)(iii)**, however, also provides that an application abandoned as a result of the failure to timely provide such a notice to the Office is subject to revival if the "delay in submitting the notice was unintentional."

35 U.S.C. **122(b)(2)(B)(iii)** provides for revival only on the basis of unintentional delay, and not on the basis of unavoidable delay. Therefore, a nonprovisional application abandoned pursuant to 35 U.S.C. **122(b)(2)(B)(iii)** for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires eighteen-month publication may be

revived only on the basis of unintentional delay pursuant to 37 CFR **1.137(b)**. The reply requirement of 37 CFR **1.137(c)** is met by the notification of such filing in a foreign country or under a multinational treaty, but the filing of a petition under 37 CFR **1.137(b)** will not operate to stay any period for reply that may be running against the application. Since the Office cannot ascertain whether an application is abandoned under 35 U.S.C. **122(b)(2)(B)(iii)**, the Office may continue to process and examine the application until the Office is notified of applicant's failure to meet the forty-five days notice requirement of 35 U.S.C. **122(b)(2)(B)(iii)**. Therefore, the filing of a petition under 37 CFR **1.137(b)** to revive such an application will not operate to stay any period for reply that may be running against the application. Applicants may use form PTO/SB/64a to file a petition for revival under **37 CFR 1.137**(b).

B. Petition Fee Requirement

35 U.S.C. 41(a)(7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in **37 CFR 1.17(m)**, unless the petition is filed under **35 U.S.C. 133** or 151 (on the basis of unavoidable delay), in which case the fee is set forth in **37 CFR 1.17(l)**. Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

In addition, the phrase "[o]n filing" in **35 U.S.C. 41(a)**(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under **37 CFR 1.137**. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by **37 CFR 1.17(l)** or 1.17(m), regardless of whether the petition under **37 CFR 1.137** is dismissed or denied; and (B) will not reach the merits of any petition under **37 CFR 1.137** lacking the requisite petition fee.

The phrase "unless the petition is filed under [35 U.S.C.] 133 or 151" signifies that petitions to revive filed on the basis of "unavoidable" delay (under **35 U.S.C. 133** or 151) are a subset of petitions to revive filed on the basis of unintentional delay. That is, "unavoidable" delay and "unintentional" delay are not alternatives; "unavoidable" delay is the epitome of "unintentional" delay. Any petition to revive an abandoned application or lapsed patent must meet the minimal "unintentional" delay threshold, and an applicant need only pay the fee specified in **37 CFR 1.17(l)** (rather than the fee specified in **37 CFR 1.17(m)**) if the petition is also accompanied by an adequate showing 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.

C. Unintentional and Unavoidable Delay

Petitions under 37 CFR **1.137**(b) are less burdensome (statement(s) rather than a showing accompanied by documentary evidence) to file and are evaluated under the less stringent "unintentional delay" standard. Applicants determining whether to file a petition to revive an application under 37 CFR **1.137**(b) or **1.137**(a) should take the following into account:

While the Office reserves the authority to require further information concerning the cause of abandonment and delay in filing a petition to revive, the Office relies upon the applicant's duty of candor and good faith and accepts the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR **1.137**(b) was unintentional" without requiring further information in the vast majority of petitions under 37 CFR **1.137**(b). This is because the applicant is obligated under 37 CFR **10.18** to inquire into the underlying facts and circumstances when a practitioner provides this statement to the Office. In addition, providing an inappropriate statement in a petition under 37 CFR **1.137**(b) to revive an abandoned application may have an adverse effect when attempting to enforce any patent resulting from the application. See *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).

Even if the Office requires further information in a petition under 37 CFR **1.137**(b), such petition is still significantly less burdensome to prepare and prosecute than a petition under 37 CFR **1.137**(a). The Office is almost always satisfied as to whether "the entire delay.was unintentional" on the basis of statement(s) by the applicant or representative explaining the cause of the delay (accompanied at most by copies of correspondence relevant to the period of delay). A showing of unavoidable delay will (in addition to the above) require: (1) evidence concerning the procedures in place that should have avoided the error resulting in the delay; (2) evidence concerning the training and experience of the persons responsible for the error; and (3) copies of any applicable docketing records to show that the error was in fact the cause of the delay. See MPEP § **711.03**(c)(III)(C)(2). In addition, a petition under 37 CFR **1.137**(a) must establish that the delay was unavoidable, and not just that it was unintentional. Thus, many petitions originally filed under 37 CFR **1.137**(a) end up being granted under 37 CFR **1.137**(b) when the applicant realizes that sufficient evidence concerning the delay is too difficult to obtain or the cause of delay simply does not amount to "unavoidable delay" within the meaning of 37 CFR **1.137**(a).

Since the requirements of 37 CFR **1.137**(a) are more exacting than the corresponding requirements of 37 CFR **1.137**(b), a petition under 37 CFR **1.137**(a) is significantly less likely to be grantable as filed than is a petition under 37 CFR **1.137**(b). The Office usually must render a number of interlocutory decisions dismissing a petition under 37 CFR **1.137**(a) and requesting additional evidence until either the applicant provides a satisfactory showing of unavoidable delay (in which case the petition can be granted) or the Office concludes that the applicant cannot provide a satisfactory showing of unavoidable delay (in which case the petition must be denied). Thus, the period between when an applicant first files a petition to revive and the Office renders a decision granting (or denying) that petition will, more often than not, be much longer if the petition is under 37 CFR **1.137**(a) than it would have been if the petition were under **37 CFR 1.137**(b).

1. Unintentional Delay

The legislative history of Public Law 97-247, § 3, 96 Stat. 317 (1982), 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 [the requisite fee] 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." H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. A delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of **37 CFR 1.137(b)**.

Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), 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).

A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of **37 CFR 1.137(b)** because:

(A) the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;

(B) the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;

(C) the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;

(D) the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or

(E) the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.

Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application.

In order to expedite treatment, applicants filing a petition under 37 CFR **1.137**(b) to revive an abandoned application are advised to include the statement "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," even if applicant chooses to include a statement of the facts concerning the delay. Applicants may use the forms provided by the Office (PTO/SB/64, PTO/SB/64a, or PTO/SB/64PCT).

**>

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

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

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

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

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

<

**>

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

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OFA FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))	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 pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).

PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREYBY PETITIONS FOR REVIVAL OF THIS APPLICATION UNDER 37 CFR 1.137(b)

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. Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c))

Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g., filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after the filing. The filing date of the subsequently filed foreign or international application is _____.

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

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

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

STATEMENT: The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice 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 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: 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	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ 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

<

PTO/SB/64/PCT (12-04)
Approved for use through 03/31/2007. OMB 0651-0021
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 INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional)

First Named Inventor:

International (PCT) Application No.: U.S. Application No.: (if known)

Filed:

Title:

Attention: PCT Legal Staff
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.495(b) or (c) as applicable. The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.495(h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee
(2) Proper reply
(3) Terminal disclaimer with disclaimer fee which is required for all international applications having an international filing date before June 8, 1995; 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. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s)) in the form of _____ (identify type of reply):

☐ has been filed 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 PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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

3. Terminal disclaimer with disclaimer fee

☐ Since this international application has an international filing date 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.

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	Date
Typed or Printed Name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Response
☐ Fee Payment
☐ Terminal Disclaimer
☐ Other (please identify):

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.

<

2. Unavoidable Delay

As discussed above, "unavoidable" delay is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under **37 CFR 1.137(a)** ("unavoidable" delay) or **37 CFR 1.137(b)** ("unintentional" delay). See *Maldague*, 10 USPQ2d at 1478.

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 *Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also *Winkler v. Ladd*, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (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).

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(A) the error was the cause of the delay at issue;

(B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and

(C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

See *In re Egbers*, 6 USPQ2d 1869, 1872 (Comm'r Pat. 1988), *rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg*, 10 USPQ2d 1787 (D.D.C. 1988); *In re Katrapat*, 6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see **MPEP § 601.03**), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:

(A) the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;

(B) the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see **MPEP § 403**); or

(C) the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See *Haines*, 673 F. Supp. at 317, 5 USPQ2d at 1132; *Vincent v. Mossinghoff*, 230 USPQ 621, 624 (D.D.C. 1985); *Smith v.*

Diamond, 209 USPQ 1091 (D.D.C. 1981); *Potter v. Dann*, 201 USPQ 574 (D.D.C. 1978); *Ex parte Murray*, 1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as **37 CFR 1.116** and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. Likewise, as a "reasonably prudent person" would file papers or fees in compliance with **37 CFR 1.8** or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with **37 CFR 1.8** and 1.10 does not constitute "unavoidable" delay. See *Krahn*, 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See *In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985).

35 U.S.C. 133 and 151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm"r Pat. 1990). The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. *Id.* at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under **37 CFR 1.137(a)** to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).

An applicant who fails to file a petition under **37 CFR 1.137(a)** "promptly" upon becoming notified, or otherwise becoming aware, of the abandonment of the application will not be able to show that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to **37 CFR 1.137(a)** was unavoidable. The removal of the language in **37 CFR 1.137(a)** requiring that any petition thereunder be "promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment" should **not** be viewed as: (A) permitting an applicant, upon becoming notified, or otherwise becoming aware, of the abandonment of the application, to delay the filing of a petition under **37 CFR 1.137(a)**; or (B) changing (or modifying) the result in *In re Application of S*, 8 USPQ2d 1630 (Comm'r Pat. 1988), in which a petition under **37 CFR 1.137(a)** was denied due to the applicant's deliberate deferral in filing a petition under **37 CFR 1.137**. An applicant who deliberately chooses to delay the filing of a petition under **37 CFR 1.137** (as in *Application of S*, 8 USPQ2d at 1632) will not be able to show 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" or even make an appropriate 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 dismissal or denial of a petition under **37 CFR 1.137(a)** does not preclude an applicant from obtaining relief pursuant to **37 CFR 1.137(b)** on the basis of unintentional delay (unless the decision dismissing or denying the petition under **37 CFR 1.137(a)** indicates otherwise). In such an instance, a petition under **37 CFR 1.137(b)** may be filed accompanied by the fee set forth in **37 CFR 1.17(m)**, the required reply, 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 any terminal disclaimer required by **37 CFR 1.137(c)**.

Form PTO/SB/61 or PTO/SB/61PCT may be used to file a petition for revival of an unavoidably abandoned application.

**>

PTO/SB/61 (07-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First Named Inventor: Art Unit:

Application Number: Examiner:

Filed:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

(1) Petition fee.
(2) Reply and/or issue fee.
(3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

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

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

2. Reply and/or fee

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

☐ has been filed previously on _____ .

☐ is enclosed herewith.

B The issue fee of $ _____

☐ has been filed previously on _____ .

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

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

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

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

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

Enclosure
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unavoidable delay
☐ _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

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

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature	Date
Typed or printed name	Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)

PTO/SB/61/PCT (12-04)
Approved for use through 03/31/2007. OMB 0651-0021
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 INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First named inventor:

U.S. Application No.:
(if known)

International (PCT) Application Number:

Filed:

Title:

Attention: PCT Legal Staff
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.495(b) or (c) (as applicable). The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.495(h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

(1) Petition fee;
(2) Proper reply;
(3) Terminal disclaimer with disclaimer fee—required for all international applications having an international filing date before June 8, 1995; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ small entity – fee $_____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee $ _____ (37 CFR 1.17(l))

2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirements) in the form of _____ (identify the type of reply):

☐ was previously filed on _____

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8.0 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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

PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

☐ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.

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

4. An adequate showing of the cause of the delay, and that the entire delay in filing the 35 U.S.C. 371(c) requirements (or a continuing U.S. application) from their due date until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is 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	Date
Typed or Printed Name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Additional sheets containing statements establishing unavoidable delay
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Other (please identify):

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 INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature	Date
Typed or Printed Name	Registration Number, if applicable

(In the space provided below, please explain in detail why the 35 U.S.C. 371(c) elements (or continuing U.S. application) were not timely filed.)

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.

<

D. Delay Until the Filing of a Grantable Petition

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

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

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

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

As discussed above, the abandonment of an 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)**, where the applicant deliberately permits the application to become abandoned. See *Application of G*, 11 USPQ2d at 1380. 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)**. An intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by:

(A) the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application;

(B) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or

(C) the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival.

Obviously, delaying the revival of an abandoned application, by a deliberately chosen course of action, until the industry or a competitor shows an interest in the invention is the antithesis of an "unavoidable" or "unintentional" delay. An intentional abandonment of an application, or an intentional delay in seeking the revival of an abandoned application, precludes a finding of unavoidable or unintentional delay pursuant to **37 CFR 1.137**. See *Maldague*, 10 USPQ2d at 1478.

The Office does not generally question whether there has been an intentional or otherwise impermissible delay in filing an initial petition pursuant to **37 CFR 1.137(a)** or (b), when such petition is filed: (A) within 3 months of the date the applicant is first notified that the application is abandoned; **and** (2) within 1 year of the date of abandonment of the application. Thus, an applicant seeking revival of an abandoned application is advised to file a petition pursuant to **37 CFR 1.137** within 3 months of the first notification that the application is abandoned to avoid the question of intentional delay being raised by the Office (or by third parties seeking to challenge any patent issuing from the application).

Where a petition pursuant to **37 CFR 1.137(a)** or (b) is not filed within 3 months of the date the applicant is first notified that the application is abandoned, the Office will consider there to be a question as to whether the delay was unavoidable or unintentional. In such instances,

(A) the Office will require a showing as to how the delay between the date the applicant was first notified that the application was abandoned and the date a **37 CFR 1.137(a)** petition was filed was "unavoidable"; or

(B) the Office may require further information as to the cause of the delay between the date the applicant was first notified that the application was abandoned and the date a **37 CFR 1.137(b)** petition was filed, and how such delay was "unintentional."

To avoid delay in the consideration of the merits of a petition under **37 CFR 1.137(a)** or (b) in instances in which such petition was not filed within 3 months of the date the applicant was first notified that the application was abandoned, applicants should include a showing as to how the delay between the date the applicant was first notified by the Office that the application was abandoned and the filing of a petition under **37 CFR 1.137** was (A) "unavoidable" in a petition under

37 CFR 1.137(a); or (B) "unintentional" in a petition under **37 CFR 1.137(b)**.

Where a petition pursuant to **37 CFR 1.137(a)** or (b) is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment) the Office will require:

(A) further information as to when the applicant (or the applicant's representative) 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 (or applicant's representative) (see *Pratt*, 1887 Dec. Comm'r Pat. at 32-33).

To avoid delay in the consideration of the merits of a petition under **37 CFR 1.137(a)** or (b) 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(a)** or **37 CFR 1.137(b)**, regardless of the circumstances that originally resulted in the abandonment of the application.

E. Party Whose Delay Is Relevant

The question under **37 CFR 1.137** is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unavoidable or unintentional. When the applicant assigns the entire right, title, and interest in an invention to a third party (and thus does not retain any legal or equitable interest in the invention), the applicant's delay is irrelevant in evaluating whether the delay was unavoidable or even unintentional. See *Kim v. Quigg*, 718 F. Supp. 1280, 1284, 12 USPQ2d 1604, 1607-08 (E.D. Va. 1989). When an applicant assigns the application to a third party (e.g., the inventor/applicant's employer), and the third party decides not to file a reply to avoid abandonment, the applicant's actions, inactions or intentions are irrelevant under **37 CFR 1.137**, unless the third party has reassigned the application to the applicant prior to the due date for the reply. *Id.*

Likewise, where the applicant permits a third party (whether a partial assignee, licensee, or other party) to control the prosecution of an application, the third party's decision whether or not to file a reply to avoid abandonment is binding on the applicant. See *Winkler*, 221 F. Supp. at 552, 138 USPQ at 667. Where an applicant enters an agreement with a third party for the third party to take control of the prosecution of an application, the applicant will be considered to have given the third party the right and authority to prosecute the application to avoid abandonment (or not prosecute), unless, by the express terms of the contract between applicant and the third party, the third party is conducting the prosecution of the application for the applicant solely in a fiduciary capacity. See *Futures Technology Ltd. v. Quigg*, 684 F. Supp. 430, 431, 7 USPQ2d 1588, 1589 (E.D. Va. 1988). Otherwise, the applicant will be considered to have given the third party unbridled discretion to prosecute (or not prosecute) the application to avoid abandonment, and will be bound by the actions or inactions of such third party.

F. Burden of Proof To Establish Unavoidable or Unintentional Delay

37 CFR 1.137(a)(3) requires a showing to the satisfaction of the Director of the USPTO 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. Therefore, the Office will require the

applicant in every petition under **37 CFR 1.137(a)** to carry the burden of proof to establish that the delay from the due date for the reply until the filing of a grantable petition was unavoidable. See *Haines*, 673 F. Supp. at 316-17, 5 USPQ2d at 1131-32.

37 CFR 1.137(b)(3) requires that a petition under **37 CFR 1.137(b)** must be accompanied by a statement that the entire delay in providing 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, but also provides that "[t]he Director may require additional information where there is a question whether the delay was unintentional." While the Office will generally require only the statement that the entire delay in providing 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 Office may require an applicant to carry the burden of proof to establish that the delay from the due date for the reply until the filing of a grantable petition was unintentional within the meaning of **35 U.S.C. 41(a)**(7) and **37 CFR 1.137(b)** where there is a question whether the entire delay was unintentional. See *Application of G*, 11 USPQ2d at 1380.

G. Terminal Disclaimer Requirement

37 CFR 1.137(d) requires that a petition under either **37 CFR 1.137(a)** or 1.137(b) be accompanied by a terminal disclaimer (and fee), regardless of the period of abandonment, in:

(A) a design application;

(B) a nonprovisional utility application >(other than a reissue application)< filed before June 8, 1995; or

(C) a nonprovisional plant application >(other than a reissue application)< filed before June 8, 1995.

In addition, a terminal disclaimer (and fee) is also required for a utility or plant application filed on or after June 8, 1995, but before May 29, 2000, where the application became abandoned (1) during appeal, (2) during interference, or (3) while under a secrecy order. The reason being that utility and plant patents issuing on applications filed on or after June 8, 1995, but before May 29, 2000, are eligible for the patent term extension under <u>former</u> 35 U.S.C. **154**(b) (as a result of the Uruguay Round Agreements Act (URAA)). See **35 U.S.C. 154(b)** (1999); see also **37 CFR 1.701**. If such an application is abandoned (1) during appeal, (2) during interference, or (3) while under a secrecy order, the patentee of a patent issuing from such an application is eligible for patent term extension for the entire period of abandonment. The requirement for a terminal disclaimer for these situations will make certain that any patent term extension obtained for the period of abandonment while the application is under appeal, interference, or a secrecy order will be dedicated to the public. For utility and plant applications filed on or after May 29, 2000, a terminal disclaimer (and fee) is not required since the period of abandonment is reduced from the patent term adjustment pursuant to **37 CFR 1.704**.

The terminal disclaimer submitted in a design application must dedicate to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. The terminal disclaimer submitted in either a utility or plant application filed before June 8, 1995 must dedicate to the public a terminal part of the term of any patent granted thereon equivalent to the lesser of: (1) the period of abandonment of the application; or (2) the period extending beyond twenty years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. **120**, **121**, or **365(c)**, from the date on which the earliest such application was filed. The terminal disclaimer must also apply to any patent granted on any continuing utility or plant application filed before June 8, 1995, or any continuing design application, entitled under 35 U.S.C. **120**, **121**, or **365(c)** to the benefit of the filing date of the application for which revival is sought. The terminal disclaimer requirement of 37 CFR **1.137(d)** does not apply to >(A)< applications for which revival is sought solely for purposes of copendency with a utility or plant application filed on or after June 8, 1995, **>(B)< lapsed patents>, (C) reissue applications, or (D) reexamination proceedings<.

The Office cannot determine (at the time a petition to revive is granted) the period disclaimed (i.e., which period is lesser: the period of abandonment of the application, or the period extending beyond twenty years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. **120**, **121**, or **365(c)**, from the date on which the earliest such application was filed). Therefore, the Office will not indicate the period disclaimed under 37 CFR **1.137(d)** in its decision granting a petition to revive an abandoned application.

The filing of a terminal disclaimer is not a substitute for unavoidable or unintentional delay. See *Application of Takao*, 17 USPQ2d at 1159. The requirement that the entire delay have been unavoidable (**37 CFR 1.137(a)**) or at least unintentional (**37 CFR 1.137(b)**) is distinct from the requirement for a terminal disclaimer. Therefore, the filing of a terminal disclaimer cannot excuse an intentional delay in filing a petition or renewed petition to revive an abandoned application. Likewise, an unavoidable or unintentional delay in filing a petition or renewed petition to revive an abandoned application will not warrant waiver of the terminal disclaimer requirement of **37 CFR 1.137(d)**.

In the event that an applicant considers the requirement for a terminal disclaimer to be inappropriate under the circumstances of the application at issue, the applicant should file a petition under **37 CFR 1.183** (and petition fee) to request a waiver of this requirement of **37 CFR 1.183**. Such a petition may request waiver of this requirement *in toto*, or to the extent that such requirement exceeds the period considered by applicant as the appropriate period of disclaimer. The grant of such a petition, however, is strictly limited to situations wherein applicant has made a showing of an "extraordinary situation" in which "justice requires" the requested relief. An example of such a situation is when the abandonment of the application caused no actual delay in prosecution (e.g., an application awaiting decision by the Board of Appeals and Interferences during period of abandonment).

Forms PTO/SB/62 and PTO/SB/63 may be used when filing a terminal disclaimer in accordance with **37 CFR 1.137(d)**.

**>

PTO/SB/62 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
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.

TERMINAL DISCLAIMER TO ACCOMPANY PETITION
(Period Specified)

Docket Number (Optional)

In re Application of:

Name:

Application Number:

Filed:

For:

The owner*, _____ of _____ percent interest in the above-identified application hereby disclaims the terminal _____ months of any patent granted on the above-identified application or on any application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to this application. This disclaimer is binding upon the grantee, its successors or assigns.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the person signing is empowered to act on behalf of the organization.

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 are made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

2. ☐ The undersigned is an attorney of record. Registration Number _____

Signature	Date
Typed or printed name	Telephone Number

☐ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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.

* Certification under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.137. 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.

PTO/SB/63 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to a collection of information unless it displays a valid OMB control number.

TERMINAL DISCLAIMER TO ACCOMPANY PETITION	Docket Number (Optional)

In re Application of:

Name:

Application Number:

Filed:

For:

The owner*, _____ of _____ percent interest in the above-identified application hereby disclaims a terminal part of the term of any patent granted the above-identified application equivalent to: (1) if the above-identified application is a design application, the period of abandonment of the above-identified application, and (2) if the above-identified application is a utility or plant application, the lesser of: (a) the period of abandonment of the application; or (b) the period extending beyond twenty years from the date on which the above-identified application was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest such application was filed. This disclaimer also applies to any patent granted on a utility or plant application filed before June 8, 1995, or a design application, that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. This disclaimer is binding upon the grantee, and its successors or assigns.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

2. ☐ The undersigned is an attorney or agent of record. Registration Number_____.

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

☐ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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.

* Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.137. 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.

<

H. Request for Reconsideration

37 CFR 1.137(e) requires that any request for reconsideration or review of a decision refusing to

revive an abandoned application or lapsed patent must be filed within 2 months of the decision refusing to revive or within such time as set in the decision. **37 CFR 1.137(e)** further provides that, unless a decision indicates otherwise, this time period for requesting reconsideration or review may be extended under the provisions of **37 CFR 1.136**.

37 CFR 1.137(e) specifies a time period within which a renewed petition pursuant to **37 CFR 1.137** must be filed to be considered timely. Where an applicant files a renewed petition, request for reconsideration, or other petition seeking review of a prior decision on a petition pursuant to **37 CFR 1.137** outside the time period specified in **37 CFR 1.137(e)**, the Office may require, *inter alia*, a specific showing as to how the entire delay was "unavoidable" (**37 CFR 1.137(a)**) or "unintentional" (**37 CFR 1.137(b)**). As discussed above, a delay resulting from the applicant deliberately choosing not to persist in seeking the revival of an abandoned application cannot be considered "unavoidable" or "unintentional" within the meaning of **37 CFR 1.137**, and the correctness or propriety of the decision on the prior petition pursuant to **37 CFR 1.137**, the correctness of the applicant's (or the applicant"s representative"s) decision not to persist in seeking revival, the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision to not persist in seeking revival are immaterial to such intentional delay caused by the deliberate course of action chosen by the applicant.

I. Provisional Applications

37 CFR 1.137 is applicable to a provisional application abandoned for failure to reply to an Office requirement. A petition under **37 CFR 1.137(a)** or (b) must be accompanied by any outstanding reply to an Office requirement, since **37 CFR 1.137(a)**(1) and 1.137(b)(1) permit the filing of a continuing application in lieu of the required reply only in a nonprovisional application.

35 U.S.C. 111(b)(5) provides that a provisional application shall be regarded as abandoned 12 months after its filing date and shall not be subject to revival after such 12-month period. 37 CFR **1.137(g)** provides that a provisional application, abandoned for failure to timely respond to an Office requirement, may be revived pursuant to 37 CFR **1.137**, however a provisional application will not be regarded as pending after twelve months from its filing date under any circumstances. Note that the pendency of a provisional application is extended to the next succeeding secular or business day if the day that is twelve months after the filing date of the provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia. See **35 U.S.C. 119(e)(3)**.

A provisional application may be abandoned prior to 12 months from its filing date for failure to reply to an Office requirement (e.g., failure to submit the filing fee and/or cover sheet). Applicant may petition to have an abandoned provisional application revived as a pending provisional application for a period of no longer than 12 months from the filing date of the provisional application where the delay was unavoidable or unintentional. It would be permissible to file a petition for revival later than 12 months from the filing date of the provisional application but only to revive the application for the 12-month period following the filing of the provisional application. Thus, even if the petition were granted to establish the pendency up to the end of the 12-month period, the provisional application would not be considered pending after 12 months from its filing date.

browse after

KEY: =online business system =fees =forms =help =laws/regulations =definition (glossary)

The **Inventors Assistance Center** *is available to help you on patent matters.Send questions about USPTO programs and services to the* **USPTO Contact Center (UCC).** *You can suggest USPTO webpages or material you would like featured on this section by E-mail to the* **webmaster@uspto.gov**. *While we cannot promise to accommodate all requests, your suggestions will be considered and may lead to other improvements on the website.*

Go to **MPEP - Table of Contents**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DIONNA O. PARKER
1021-31ST ST.
NEWPORT NEWS VA 23605

MAILED

MAR 18 2009

OFFICE OF PETITIONS

In re Application of
Dionna O. PARKER
Application No. 10/693,385
Filed: October 27, 2003
Attorney Docket No. n/a

ON PETITION

This is a decision on the communications, filed January 10, 2007 and June 8, 2007, addressed to the Board of Patent Appeals and Interferences, which appear to be in response to the petition decision of May 31, 2006, and are collectively being treated as a petition to revive the above-identified application under the provisions of 37 CFR 1.137(b). This petition is properly treated by the Office of Petitions.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 8, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 9, 2005.

At the outset it is noted that the instant petition was directed to the Board of Patent Appeals and Interferences (Board). At this time the Board does not have jurisdiction over the application.

In the previous petition decision mailed May 31, 2006 petitioner was informed of the correct procedure for reviving an abandoned application under either 37 CFR 1.137(a) or (b) and was provided a copy of MPEP 711.03(c) which provides a general discussion of the procedures for filing a petition to revive an abandoned application, as well as petition forms for both the

unavoidable delay and unintentional delay petitions. These forms and the entire MPEP are available from the USPTO web site. The instant petition indicates that petitioner is attempting to revive the application; however, petitioner has not complied with any of the requirements of 37 CFR 1.137(a) or (b). In order to comply with the provisions of either 37 CFR 1.137(a) or (b) petitioner must provide: (1) a proper reply to non-final Office action of September 8, 2005; (2) the appropriate petition fee; and (3) either an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable or 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. As petitioner has provided none of the above the petition may not be further treated on the merits. Petitioner is cautioned that any delay in filing an appropriate petition to revive may be considered an intentional delay in reviving the above-identified application. Any such intentional delay may preclude the granting of a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b).

Petitioner's comments about Mr. Andrew James Sr. have been noted. These comments were addressed in the previous decision on petition and no further comment will be made. However, petitioner is advised that the USPTO is not the forum for resolving disputes between applicants and their representatives. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

Additionally, petitioner is reminded that personnel employed by the USPTO are prohibited from aiding petitioner or any other person in the prosecution of an application. As noted in the previous decision on petition in view of petitioner's apparent lack of knowledge of the rules and procedures which govern the USPTO the services of a registered attorney or agent are strongly recommended.

Petitioner may also seek limited assistance (not advice) from the USPTO Office of Petitions Help Desk at (571) 272-3282, and additional information, and forms from the USPTO web site at: *www.uspto.gov*.

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 should be directed to the undersigned at (571) 272-7099.

David Buczi
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

DLA PIPER US LLP
153 TOWNSEND STREET
SUITE 800
SAN FRANCISCO CA 94107-1957

COPY MAILED
MAR 10 2009
OFFICE OF PETITIONS

Applicant: Godkin
Appl. No.: 10/693,394
Filing Date: October 24, 2003
Title: CLOSED-ENDED LINEAR VOICE COIL ACTUATOR WITH IMPROVED FORCE CHARACTERISTIC
Attorney Docket: 351999-991410
Pub. No.: US 2004/0156526 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 26, 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 <u>not</u> an Office error. The patent application publication does not include a mistake with respect to the inventor's name.

---

[1] <u>Changes to Implement Eighteen-Month Publication of Patent Applications</u>, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, <u>Off. Gaz. Pat. Office Notices</u> 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 26, 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 6, 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

UNITED STATES 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. 082404

JOHN J. WORDIN
P.O. BOX 121
KUALAPUU, HI 96757-0121

SEP 7 2004

In re Application of:	:	
WORDIN *et al.*	:	DECISION ON PETITION
Serial No.: 10/693,404	:	TO MAKE SPECIAL
Filed: October 24, 2003	:	
Attorney Docket No.:	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed October 24, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a birth certificate from co-inventor John J. Wordin and a passport from co-inventor Roland Ejereito, Jr., stating they are sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

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

Inquiries regarding this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 03-05

Paper No: __

CHARLES W. CHANDLER, ATTORNEY
33150 SCHOOLCRAFT
LIVONIA MI 48150

COPY MAILED

MAR 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Stojanovski	:	
Application No. 10/693,418	:	DECISION
Filed: 27 October, 2003	:	
Attorney Docket No. SSX-116-A	:	

This is a decision on the petition, filed via FAX on 14 January, 2005, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on 11 May, 2004. Moreover, Petitioner submitted the instant petition (recision request inherent) on 14 January, 2005, upon learning of the error.

Thus, Petitioner alleges unintentional failure to notify the U.S. Patent and Trademark Office of this filing of the subject application in a foreign country within 45 days of that filing.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §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 C.F.R. §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 C.F.R. §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 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §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 30 June, 2005, accompanies this decision.

This application is being released to Publications Branch to be processed into a patent in due course.

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

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JEFFREY M. DUNCAN
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

COPY MAILED

NOV 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas Dwayne Nixon et al	:	
Application No. 10/693,425	:	DECISION GRANTING PETITION
Filed: October 24, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4865/133	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 2, 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 October 9, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1755 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 2 2005

PHARMACEUTICAL PATENT ATTORNEYS, LLC
55 MADISON AVENUE
4TH FLOOR
MORRISTOWN NJ 07960-7397

In re Application of	:
A. M. Fleischner	:
Serial No.: 10/693,442	: PETITION TO MAKE SPECIAL
Filed: October 24, 2003	:
Attorney Docket No.: Nutramerica	:

This is in response to applicant's petition filed July 13, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II, (A), (B), and (C). The $130.00 petition fee as required by 37 CFR 1.17(h) has been paid. Therefore, the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

COPY MAILED

FEB 17 2005

OFFICE OF PETITIONS

In re Application of
Amnon Silverstein
Application No.10/693,446
Filed: October 24, 2003

Attorney Docket Number: 10982103-4
Title of Invention: Pointing Device For Digital Camera Display

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed on January 5, 2004, requesting that the above-identified application be accorded a filing date of October 24, 2003, rather than the presently accorded filing date of October 23, 2003.

Petitioner contends the application was deposited in Express Mail service on October 24, 2003. In support, petitioner supplied a copy of Express Mail receipt No. EV104131865US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). Petitioner has also supplied a copy of the Office stamped postcard receipt which contains a date of October 24, 2003.

In view of the above, the petition is **Granted**. The petition fee will be refunded to deposit account 08-2025.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **October 24, 2003** and issuance of a corrected Filing Receipt.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

COPY MAILED

OCT 29 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kevin T. Look :
Application No. 10/693,468 :
Filed: October 24, 2003 :
Attorney Docket No. X-719-1D-2D US

This is a decision on the petition, filed October 22, 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 October 7, 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 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEPARTMENT OF THE AIR FORCE
AFMC LO/JAZ
2240 B ST., RM. 100
WRIGHT-PATTERSON AFB OH 45433-7109

COPY MAILED

MAR 13 2006

OFFICE OF PETITIONS

In re Application of :
Ivan I. Aksenov et al. :
Application No. 10/693,482 : DECISION ON PETITION
Filed: October 21, 2003 :
Attorney Docket No. AFD639 :

This is a decision on the petition filed September 21, 2005, under 37 CFR 1.137(f) which is being treated under the unintentional provisions of 37 CFR 1.137(b), to revive the instant nonprovisional 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. 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 materials submitted on September 21, 2005 reveals that the actual petition and authorization to charge the petition fee is not included. It appears that the filing was supposed to be 26 pages. While there is a "Statement Regarding Unintentionally Delayed Notification of Foreign Filing" on pages 16-18 of 26, pages 19-26 are missing.

Additionally, petitioner has not provided the exact filing date of the foreign application or a rescission of the non-publication request. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application and a rescission of the non-publication request..

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
www.uspto.gov

DEPARTMENT OF THE AIR FORCE
AFMC LO/JAZ
2240 B ST., BLDG 11, ROOM 100
WRIGHT-PATTERSON AFB OH 45433-7109

COPY MAILED

MAY 03 2007

OFFICE OF PETITIONS

In re Application of
Ivan I. Aksenov et al.
Application No. 10/693,482
Filed: October 21, 2003
Attorney Docket No. AFD639

: DECISION ON PETITION

This is a decision on the renewed petition filed April 2, 2007, under 37 CFR 1.137(f) which is being treated under the unintentional provisions of 37 CFR 1.137(b), to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of foreign international applications filed October 15 2004 and October 20, 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 publication date will be communicated to the applicants in due course.

The petition fee in the amount of $1500.00 has been charged to deposit account no. 01-0465 per the verbal authorization given the undersigned by Attorney Gerald Hollins in a telephone conversation on May 2, 2007.

This matter is being referred to Technology Center 1753 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
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

COPY MAILED

JUN 20 2008

In re Application of	:
Oshima, et al.	: DECISION ON PETITION
Application No.: 10/693,526	:
Filed: October 27, 2003	:
Docket No.: 2003_1522	:

This is a decision on the petition filed April 14, 2008 under 37 CFR 1.183 to accept substitute specification in a reissue application.

The petition is **GRANTED**.

37 CFR 1.125(d) prohibits the filing of a substitute specification in a reissue application.

37 CFR 1.173(a)(1) requires a specification be in the form of "a copy of the printed patent, in double column format." The substitute specification is not a copy of the printed patent in double column format. Therefore, in order for relief to be granted, the Office must waive the requirements of 37 CFR 1.173(a)(1).

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed.

The instant request for waiver is predicated upon the fact that in "a telephone conversation with the Examiner in connection with reissue application 09/686,464, which is also a divisional application of reissue application 09/244,037, the Examiner required a substitute specification and indicated that substitute specifications would be required in all of the related reissue applications of U.S. patent 5,600,672 if the same specification amendments were to be entered."

There is no way for petitioner to comply with the examiner's requirement absent waiver of the rules. Therefore, the petition is granted and the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) are hereby waived pursuant to 37 CFR 1.183.

This application is being forwarded to Technology Center Art Unit 2611 for further action as appropriate.

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.go

RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER
FIRST NATIONAL TOWER FOURTH FLOOR
106 S. MAIN STREET
AKRON, OH 44308

COPY MAILED

AUG 1 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Ciavarella et al.	:	
Application No. 10/693,534	:	ON PETITION
Filed: October 25, 2003	:	
Attorney Docket No. GOJ.P.0096	:	

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

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

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

Inquiries related to this communication should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to (571) 272-3206.

This matter is being referred Technology Center 3700 for further examination on the merits.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER
FIRST NATIONAL TOWER FOURTH FLOOR
106 S. MAIN STREET
AKRON OH 44308

COPY MAILED

FEB 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Ciavarella et al.	:	
Application No. 10/693,534	:	ON PETITION
Filed: October 25, 2003	:	
Attorney Docket No. GOJ.96.US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 12, 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 Appeal Brief; (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 further processing.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAHIVE & COCKFIELD, LLP/
BIOGEN IDEC
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of	:	
SANICOLA-NADEL et al.	:	
Application No. 10/693,538	:	DECISION ON APPLICATION
Filed: 10/23/2003	:	FOR
Atty. Docket No BGN-A117CNRCE2	:	PATENT TERM ADJUSTMENT

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR §1.705(b) filed December 19, 2008. Applicant requests correction of the patent term adjustment from 128 days to 508 days on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. 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 three years. See 37 CFR 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment 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 pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, 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.

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was first filed in this application on November 8, 2007.

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

The application is being forwarded to the 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 for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney, Christina Tartera Donnell, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAHIVE & COCKFIELD, LLP / BIOGEN IDEC
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

COPY MAILED

JUL 27 2009

OFFICE OF PETITIONS

In re Patent No. 7,531,174	:
Sanicola-Nadel et al.	: DECISION ON REQUEST FOR
Issue Date: May 12, 2009	: RECONSIDERATION OF
Application No. 10/693,538	: PATENT TERM ADJUSTMENT
Filed: October 23, 2003	: AND NOTICE OF INTENT TO
Docket No. BGG-A117CNRCE2	: ISSUE A CERTIFICATE OF CORRECTION

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR §1.705(b) and (d), filed July 10, 2009, which is being treated as a petition under 37 CFR 1.705(d). Patentees request that the determination of patent term adjustment be corrected from two hundred thirty-three (233) days to five hundred thirty-one (531) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED** to the extent indicated herein.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer**, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **210 days**.

BACKGROUND

On May 12, 2009, the application matured into U.S. Patent No. 7,531,174, with a revised patent term adjustment of 233 days.

On July 10, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment. Patentees assert, pursuant to 37 CFR 1.703(f), the period of adjustment of the term of the patent under 37 CFR 1.702 is the sum of the periods of examination delay calculated under subparagraphs (a)-(e), to the extent that such periods are not overlapping, less the sum of the periods calculated under 37 CFR 1.704 (the period of applicant delay). Patentees contend no periods of delay attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap. Therefore, patentees maintain that they are entitled to the sum of 322 (299 + 23) days of examination delay plus 380 days of Three Year Delay, reduced by 171 (19 + 61 + 89 + 2) days of applicant delay, for a total patent term adjustment of 531 days.

OPINION

At the outset, the Office notes that the correct period of adjustment under 37 CFR 1.702(b) for failure by the Office to issue the patent within three years is 381 days, not 380 days as stated by patentees. Furthermore, it appears that patentees used the incorrect number of 380 days in calculating the requested patent term determination of 531 (322 + 380 - 171) days.

Pursuant to 37 CFR 1.703(b), the period of adjustment of 381 day is calculated as the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), October 24, 2006, and ending on the date the RCE was filed November 8, 2007.[1] "When a period is indicated (in 37 CFR 1.703 or 1.704) as

---

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

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

'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id.

As to patentees' interpretation of the period of overlap, the Office finds that it is inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

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

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

---

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

[2] Likewise, 37 CFR 1.703(f) provides that:

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

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

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

It is noted, however, that delays resulting in the Office's failure to meet the time frames specified in 35 U.S.C. 154(b)(1)(A) (the "fourteen-four-four-four" provisions) are not always overlapping with a delay resulting in the Office's failure to issue a patent within the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) because not all application pendency time is counted toward this three-year period. See 35 U.S.C. 154(b)(1)(B)(i)-(iii).

In this instance, all application pendency time is not counted toward the three-year period. A request for continued examination was filed on November 8, 2007. The period subsequent to the filing of the RCE is not included in the three-year time frame specified in 35 U.S.C. 154(b)(1)(B). See 35 U.S.C. 154(b)(1)(B)(i). Thus, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period from October 23, 2003 to November 8, 2007. Thus, only the 299 days[3] of patent term adjustment accorded prior to the filing of the RCE pursuant to 37 CFR 1.702(a)(1)[4] are considered in determining overlap. The 23 days[5] for Office delay under 37 CFR 1.702(a)(4),[6] occurring subsequent to the filing of the RCE are not considered. The 381 days attributed to Office delay pursuant to 37 CFR 1.702(b) is determined to overlap with the

---

[3] The Office mailed a Restriction Requirement on October 18, 2005, 14 months and 299 days after the filing of the application on October 23, 2003.

[4] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application[.]

[5] The Office issued the patent on May 12, 2009, 4 months and 23 days after the payment of the issue fee on December 19, 2008.

[6] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> . . .
>
> (4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

299 days attributed to Office delay pursuant to 1.702(a)(1). 381 days is the actual number of days issuance of the patent was delayed. Accordingly, at issuance, the Office should have entered only 59 additional days of patent term adjustment (not 82 days) for the Office taking in excess of three year to issue the patent for a total Office delay of 381 (299 + 23 + 59) days. Accordingly, the additional 82 days will be removed and 59 days will be entered.

In view thereof, the revised determination of patent term adjustment at the time of the issuance of the patent is 210 days (381 days of Office delay - 171 days of applicant delay).

The Office acknowledges the $200.00 fee under 37 CFR 1.18(e) paid on December 9, 2008, and July 10, 2009. The decision of March 25, 2009, stated that an additional petition fee for seeking reconsideration of patent term adjustment as it relates to the Three Year Delay was not necessary if filed within two month of the issuance of the patent. Therefore, the $200.00 fee paid on July 10, 2009, will be refunded. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 210 days.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,531,174 B2

DATED : May 12, 2009

INVENTOR(S) : Sanicola-Nadel 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 (233) days

Delete the phrase "by 233 days" and insert – by 210 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAHIVE & COCKFIELD, LLP / BIOGEN IDEC
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

COPY MAILED

SEP 01 2009

OFFICE OF PETITIONS

In re Patent No. 7,531,174	:
Sanicola-Nadel et al.	: DECISION ON REQUEST FOR
Issue Date: May 12, 2009	: RECONSIDERATION OF
Application No. 10/693,538	: PATENT TERM ADJUSTMENT
Filed: October 23, 2003	: AND NOTICE OF INTENT TO
Docket No. BGG-A117CNRCE2	: ISSUE A CERTIFICATE OF CORRECTION

This is in response to the RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION, filed August 26, 2009, which is properly treated as a petition under 37 CFR 1.705(d). Patentees request that the determination of patent term adjustment be corrected from two hundred ten (210) days to five hundred thirty-one (531) days, or in the alternative, two hundred thirty-two (232) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED** to the extent indicated herein.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer**, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **two hundred thirty-three (233) days.**

BACKGROUND

On May 12, 2009, the application matured into U.S. Patent No. 7,531,174, with a revised patent term adjustment of 233 days

(404 days of Office delay - 171 days of applicant delay). On July 10, 2009, patentees timely submitted a request for reconsideration of patent term adjustment within two months of the issue date of the patent. On July 27, 2009, the Office mailed a decision on the request stating that the patent term adjustment indicated on the patent would be corrected by the issuance of a certificate of correction showing a revised patent term adjustment of 210 days. The Office issued the certificate of correction on August 25, 2009. On August 26, 2009, patentees mailed a "RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION."

Patentees request recalculation of the patent term adjustment. Patentees assert, pursuant to 37 CFR 1.703(f), the period of adjustment of the term of the patent under 37 CFR 1.702 is the sum of the periods of examination delay calculated under subparagraphs (a)-(e), to the extent that such periods are not overlapping, less the sum of the periods calculated under 37 CFR 1.704 (the period of applicant delay). Patentees contend no periods of delay attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap. Therefore, patentees maintain that they are entitled to the sum of 322 (299 + 23) days of examination delay plus 380 days of Three Year Delay, reduced by 171 (19 + 61 + 89 + 2) days of applicant delay, for a total patent term adjustment of 531 days. However, in the alternative, patentees assert that in the event that the USPTO maintains its interpretation of 35 U.S.C. 154(b)(1)(B) and 35 USC 154(b)(2)(A), patentees are entitled to 232 days of patent term adjustment, including 23 days of patent term adjustment for the period in excess of four months between payment of the Issue Fee and the date of issuance of the patent.

OPINION

At the outset, the Office reiterates that the period of adjustment under 37 CFR 1.702(b) for failure by the Office to issue the patent within three years is 381 days, not 380 days as stated by patentees. Furthermore, it appears that patentees used the 380 days in calculating the requested patent term determination of 531 days, or in the alternative, 232 days.

Pursuant to 37 CFR 1.703(b), the period of adjustment of 381 day is calculated as the number of days in the period beginning on

the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), October 24, 2006, and ending on the date the RCE was filed November 8, 2007.[1] "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id.

As to patentees' interpretation of the period of overlap, the Office finds that it is inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

As explained in *Explanation of 37 CFR 1.703(f)*[2] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent

---

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

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

[2] Likewise, 37 CFR 1.703(f) provides that:

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

term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that

periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

It is noted, however, that delays resulting in the Office's failure to meet the time frames specified in 35 U.S.C. 154(b)(1)(A) (the "fourteen-four-four-four" provisions) are not always overlapping with a delay resulting in the Office's failure to issue a patent within the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) because not all application pendency time is counted toward this three-year period. See 35 U.S.C. 154(b)(1)(B)(i)-(iii).

In this instance, all application pendency time is not counted toward the three-year period. A request for continued examination was filed on November 8, 2007. The period subsequent to the filing of the RCE is not included in the three-year time frame specified in 35 U.S.C. 154(b)(1)(B). See 35 U.S.C. 154(b)(1)(B)(i). Thus, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period from October 23, 2003 to November 8, 2007. Thus, only the 299 days[3] of patent term adjustment accorded prior to the filing of the RCE pursuant to 37 CFR 1.702(a)(1)[4] is considered in determining overlap. (The 23 days[5] for Office delay under 37 CFR

---

[3] The Office mailed a Restriction Requirement on October 18, 2005, 14 months and 299 days after the filing of the application on October 23, 2003.

[4] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application[.]

[5] The Office issued the patent on May 12, 2009, 4 months and 23 days after the payment of the issue fee on December 19, 2008.

1.702(a)(4),[6] occurring subsequent to the filing of the RCE is not considered.) The 381 days of Office delay accrued as of the filing of the RCE under 37 CFR 1.702(b) is determined to overlap with the 299 days attributed to examination delay pursuant to 1.702(a)(1). Accordingly, at issuance, the Office entered 82 additional days of patent term adjustment for the Office taking in excess of three year to issue the patent.

In view thereof, the revised determination of patent term adjustment at the time of the issuance of the patent is 233 days (404 days (299 + 23 + 82) of Office delay - 171 days of applicant delay).

The Office acknowledges the previous payment of the $200.00 fee under 37 CFR 1.18(e). No additional fees are required.

This matter is being forwarded to the Certificates of Correction Branch. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 233 days.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

---

[6] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> . . .
>
> (4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,531,174 B2

DATED : May 12, 2009

INVENTOR(S) : Sanicola-Nadel 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 (210) days

Delete the phrase "by 210 days" and insert – by 233 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : September 29, 2009

Patent No. :7,171,354
Inventor(s) :10/018317
Issued :January 30, 2009
Title :SPEECH DECODER AND CODE ERROR COMPENSATION

Re: Request for Certificate of Correction

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

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

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

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

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

C. include the processing fee set forth in 37 CFR 1.17(i).

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

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

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

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

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

By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions
EFS web	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Technical Support 1-866-217-9197

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

A. Green

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

James E. Ledbetter
Dickinson Wright PLLC
International Square
1875 Eye Street, N.W. Ste 1200
Washington, DC 20006

/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/19/07

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction on Patent No.: 7059369

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.

- [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

DOC Code: COCIN

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,059,369 B2

Page 1 of 5

APPLICATION NO. : 10/693,548

ISSUE DATE : Jun. 13, 2006

INVENTOR(S) : Krywitsky

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page
Item 73, Assignee, after "Calgary" insert --(CA)--
Item 74, Attorney, Agent, or Firm, change "Workman-Nydegger" to --Workman Nydegger--

Column 3
Line 20, change "are" to --is--

Column 4
Line 9, change "FIG. 3" to --FIG. 1--

Column 8
Line 19, change "205" to --207--

Column 10
Line 4, change "3B" to --3C--
Line 60, change "3B" to --3C--

Column 11
Line 15, change "or" to --of--
Line 36, change "102" to --102D--

Column 15
Line 58, change "anus" to --arms--
Line 65, change "tat" to --that--

Column 16
Line 34, change "10" to --to--

Column 18
Line 3, after "piston seal" insert --to--

Approved TCM 5/30/07

MAILING ADDRESS OF SENDER (Please do not use customer number
John C. Stringham, WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

MAR - 5 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHRISTIE PARKER & HALE, LLP
P.O. BOX 7068
PASADENA, CA 91109-7068

COPY MAILED

MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of :
Robert A. Mest :
Application No. 10/693,553 : ON PETITION
Filed: October 24, 2003 :
Attorney Docket No. 50727/AW/W112

This is a decision on the petition filed, March 14, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 10, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3739 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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 : 1/09/09

TO SPE OF : ART UNIT **2853 (2800)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/693,565** Patent No.: **7,101,031**

Attn: Lam Nguyen

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 in claims 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: _____

LN
03/16/09

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RENNER KENNER GRIEVE BOBAK TAYLOR & WEBER
FIRST NATIONAL TOWER FOURTH FLOOR
106 S. MAIN STREET
AKRON, OH 44308

COPY MAILED

AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Nick E. Ciavarella et al	:	
Application No. 10/693,567	:	NOTICE
Filed: October 25, 2003	:	
Attorney Docket No. GOJ 03031	:	

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

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

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

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

This matter is being referred to Technology Center AU 3661 for examination in due course.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RICHARD C. CALDERWOOD
2775 NW 126TH AVE
PORTLAND OR 97229-8381

COPY MAILED
AUG 01 2008

In re Application of :
Claudio R. Laraia :
Application No. 10/693,569 : ON PETITION
Filed: October 24, 2003 :
Attorney Docket No. ICN001

This is a decision on the petition under 37 CFR 1.137(a), filed July 21, 2008, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.137(b), filed July 21, 2008, in the alternative.

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 non-final Office action mailed November 29, 2007, which set a shortened statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned March 1, 2008.

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 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 (2) and (3) .

[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 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.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

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 non-final Office action was not received.

With regard to item (2) above, the fee for the instant petition is $255.00 and did not accompany the petition.

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 practitioner 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.

Petitioner has not made the evidentiary showing establishing non-receipt of the Office action as indicated above. The petition was not accompanied by docket records or a statement that petitioner's files and docket records were searched and petitioner did not find the non-final Office action. The petition under 37 CFR 1.137(a) must be dismissed accordingly,

TREATMENT UNDER 37 CFR 1.137(b)

The petition under 37 CFR 1.137(b) is granted.

The amendment filed July 21, 2008, is noted.

---

[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.

The application file is being directed to Technology Center, GAU 2615 for further processing.

Telephone inquiries regarding 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

David G. Rosenbaum, Esq.
Rosenbaum & Associates, P.C.
650 Dundee Road, Suite #380
Northbrook, IL 60062

COPY MAILED

APR 08 2009

OFFICE OF PETITIONS

In re Application of
Christopher T. Boyle, et. al.
Application No. 10/693,572
Filed: October 24, 2003
Attorney Docket No. 6006-108

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 2009, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed on February 25, 2008. A Notice of Abandonment was mailed on October 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3734 for review of the amendment filed with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : ~~5/9/06~~ 7/19/06

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/639573 Patent No.: 7012152 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

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

COPY MAILED
SEP 2 0 2006
OFFICE OF PETITIONS

Shelby J. Walker
Patent Department
ZymoGenetics, Inc.
1201 Eastlake Avenue East
Seattle, WA 98102

In re Application of :
Si Lok :
Application No. 10/693,587 : ON PETITION
Filed: October 24, 2003 :
Attorney Docket No. 99-34D1 :

This is a decision on the petition under 37 CFR 1.137(b), filed on June 8, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed August 10, 2005. A Notice of Abandonment was mailed on June 1, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of $9 for three (3) advance order soft copies.

This application file is being referred to the Office of Publications to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRYAN P. STANLEY
SONNENSCHEIN, NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION
SEARS TOWER
CHICAGO, ILLINOIS 60606-1080

MAILED

JAN 2 7 2005

Technology Center 2100

In re Application of: Harris
Application No. 10/693,590
Filed: October 24, 2003
For: CONSTRUCTION PROJECT SUBMITTAL MANAGEMENT

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II) INFRINGEMENT

This is a decision on the petition, filed October 27, 2004 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

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

Section (II) 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. Applicants must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims.

The petition meets the criteria of Section (II) by stating (A) "To the best of my knowledge, there is an infringing method actually on use in the market, evidenced at least by alleged infringer's website"; (B) "I have made a rigid comparison of the alleged infringing method with the claims of the above-identified application, and, in my opinion, some of the claims are unquestionably infringed"; and (C) "I have made or have caused to be made a careful and thorough search of the prior art and I believe that I have a good knowledge of the pertinent prior art.". Applicants also state that "One copy each of the references deemed by Applicant to most closely relate to the subject matter encompassed by the claims has already been made of record in the above-identified application."

The Petition is **GRANTED**.

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

1/26/05

HMJ: 01/24/2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

Larry F. Gitlin
RAPKIN, GITLIN & BEAUMONT
Suite 301
5855 Topanga Canyon Boulevard
Woodland Hills CA 91367-4620

COPY MAILED

JUN 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Ross Clay	:	
Application No. 10/693,597	:	DECISION ON PETITION UNDER
Filed: October 27, 2003	:	37 C.F.R. §1.137(B)
Attorney Docket Number: G-3105	:	
Title: POOL LEAF REMOVAL NET	:	

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 non-final Office action, mailed March 3, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 4, 2005. A notice of abandonment was mailed on October 4, 2005.

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

---

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.

C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant 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 the instant petition.

The present petition was received on January 23, 2006, along with the petition fee, an amendment, and a statement which is being construed as the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the concurrently submitted amendment can be processed.

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

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.

Paul Shanoski

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

Cc: Larry Gitlin
RAPKIN, GITLIN & BEAUMONT
21650 Oxnard Street, Suite 1620
Woodland Hills CA 91367

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

NOV 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Thomas C. Green, et al.	:	
Application No. 10/693,598	:	ON PETITION
Filed: October 23, 2003	:	
Attorney Docket No. NEO-002 CON2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

The petition for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) was signed by Gerald J. Sanders, CEO of Neoseed Technology, LLC. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied.

Specifically, § 3.73 provides that:

> (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

A Statement under 3.73(b) is required in order to revive the application. A blank copy of Statement under 37 CFR 3.73(b) accompanies this decision.

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

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

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

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

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

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

Attachment to cc: Blank copy of Statement under 37 CFR 3.73(b) form.

cc: Gerald J. Sanders
CEO of Neoseed Technology, LLC
The Presidio, Old Army Headquarters, Building 220
Suite 120, P. O. Box 29450
San Francisco, CA 94129

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RECEIVED
CENTRAL FAX CENTER

JAN 0 6 2006

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

COPY MAILED

NOV 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Thomas C. Green, et al. :
Application No. 10/693,598 : ON PETITION
Filed: October 23, 2003 :
Attorney Docket No. NEO-002 CON2 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

The petition for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) was signed by Gerald J. Sanders, CEO of Neoseed Technology, LLC. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied.

Specifically, § 3.73 provides that:

> (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

A Statement under 3.73(b) is required in order to revive the application. A blank copy of Statement under 37 CFR 3.73(b) accompanies this decision.

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

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

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

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

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

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

Attachment to cc: Blank copy of Statement under 37 CFR 3.73(b) form.

cc: Gerald J. Sanders
CEO of Neoseed Technology, LLC
The Presidio, Old Army Headquarters, Building 220
Suite 120, P. O. Box 29450
San Francisco, CA 94129

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
JUL 27 2006
OFFICE OF PETITIONS

In re Patent of	:	
Green et al.	:	
Application No. 10/693,598	:	DECISION
Filed: October 23, 2003	:	ON PETITION
Title of Invention:	:	
METHODS AND APPARATUS FOR	:	
LOADING RADIOACTIVE SEEDS INTO	:	
BRACHYTHERAPY NEEDLES	:	

This is a decision on the Renewed Petition Under 37 CFR 1.137(b), filed January 6, 2006. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed January 24, 2005. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on March 25, 2005. A Notice of Abandonment was mailed on July 8, 2005.

Petitioner filed a petition to revive the application and the issue fee on August 5, 2005, which was dismissed in a Decision mailed November 15, 2005. The Decision dismissing the petition required a statement in accordance with 37 CFR 3.73(b).

With the instant petition, Applicant has demonstrated that the petition filed August 5, 2005, was executed by a proper party in interest.

However, a review of the instant renewed petition reveals that it has not been executed by a proper party to the application. While the 3.73(b) Statement demonstrates that the assignee is empowered to act in this application, there is no record of a Power of Attorney appointing Lucc, Forward, Hamilton & Scripps, or Nicolas Pisano to act in this application. If Petitioner desires to receive further correspondence with respect to this application, a Power of Attorney and Change of Correspondence Address must be filed. A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until instructions to the contrary are received.

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

Derek L. Woods
Attorney
Office of Petitions

Cc: Lucc, Forward, Hamilton & Scripps
11988 EL CAMINO REAL
SUITE 200
SAN DIEGO, CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAUL BARKER
FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
1300 I STREET NW
WASHINGTON DC 20005-3315

COPY MAILED

JUN 1 4 2004

OFFICE OF PETITIONS

In re Application of Friedlander, et al. Application No. 10/693,609 Filed: October 23, 2003 Attorney Docket No. 07414.0075-00000	: : : : :	ON PETITION

This is a decision on the "PETITION UNDER 37 CFR 1.10(c) TO CORRECT FILING DATE AND REQUEST FOR CORRECTED FILING RECEIPT", filed March 30, 2004 (certificate of transmittal dated March 9, 2004), to accord the above-identified application a filing date of October 23, 2003.

The petition is **GRANTED**.

Petitioner argues that the above-identified application was filed on October 31, 2003, not October 24, 2003. In support thereof, petitioner has included a copy of an Express Mail mailing label, bearing Express Mail number EV 3351294240 US, and containing a date-in entry and a USPS stamp dated October 23, 2003.

37 CFR 1.10(c) states that any person filing correspondence under 37 CFR 1.10, who can show that there is a discrepancy between the filing date accorded by the Office and the date of deposit as shown by the "date-in" on the Express Mail mailing label, may petition the Office to accord the correspondence a filing date as of the "date-in" on the Express Mail mailing label, provided:

> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fees(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Here, petitioner has met requirements (1), (2), and (3) above.

In view of the above, the application is entitled to a filing date of October 23, 2003.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **October 23, 2003, not October 24, 2003,** and for entering of the claim for priority to provisional application no. 60/421,035, filed October 23, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

FEB 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Short, et al. :
Application No. 10/693,609 : ON PETITION
Filed: October 23, 2003 :
Attorney Docket No. 07414.0075-00000 :

This is a decision on the petition under 37 CFR 1.182(a), filed December 14, 2004 to change the order of inventors.

The petition is **GRANTED.**

The joint inventors will be listed on the application as follows:

Sabine Short
H. Michael Wenz
Ernest Friedlander
Shirley Johnson

A corrected filing receipt is enclosed.

Effective December 8, 2004, the fee for a petition under 37 CFR 1.182 is $400.00. See 37 CFR 1.17(f). The amount of $130.00 is noted as being received. Deposit account 06-0916 was charged $270.00 for the additional amount due.

The application will be directed to Technology Center 1600, GAU 1637 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

October 2006

FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI
& BIANCO P.L.
ONE BOCA COMMERCE CENTER
551 NORTHWEST 77TH STREET, SUITE 111
BOCA RATON FL 33487

In re Application of:
Michele VULPIO
Serial No.: 10/693,639
Filed: October 24, 2003
Attorney Docket No.: 99-CT-371/DP2

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 file a response to the non-final Office action mailed on March 8, 2006. A Notice of Abandonment was mailed on October 4, 2006.

A review of the written record indicates that a proper response to the non-final Office action was filed on October 16, 2006, with a certificate of mailing under 37 CFR § 1.8 dated September 8, 2006, but not matched with the application prior to the mailing of the Notice of Abandonment. The response includes an Amendment, a request for a three-month extension of time and the fee. Since the response was timely filed, the abandonment of the application was premature. 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 examiner for consideration of the response.

Inquiries related to this decision should be directed to Jose' G. Dees at 571-272-1569.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

COPY MAILED
NOV 06 2006
OFFICE OF PETITIONS

In re Application of Sylvain Chemtob et al Application No. 10/693,657 Filed: October 24, 2003 Attorney Docket No. 50429/005001	: : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed April 20, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 5, 2005. 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 February 15, 2007, has been mailed under separate cover.

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

This application is being referred to Technology Center Art Unit 1646 for appropriate action on the April 20, 2006 reply to the restriction requirement of October 17, 2005.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

LAWRENCE N. GINSBERG
21 SAN ANTONIO
NEWPORT BEACH CA 92660-9112

COPY MAILED

JAN 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Mark E. Anderson et al.	:	
Application No. 10/693,660	:	
Filed: October 24, 2003	:	DECISION ON PETITION
Attorney Docket Number: MEA-0201-C2	:	UNDER 37 C.F.R. §1.181
Title: METHOD AND APPARATUS FOR	:	
CREATING A PATHWAY IN AN ANIMAL	:	

This is a decision on the petition filed on March 20, 2005 under 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn. A supplement to this petition was received on January 2, 2006. The Office regrets the delay in issuing 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, 2004, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 14, 2004. A Notice of Abandonment was mailed on February 24, 2005.

In the original petition, Petitioner asserted that he was in communication with the Examiner around the time of the mailing of the non-final Office action, and was verbally informed by the same that Petitioner was not obligated to respond to the Office action. Pursuant to 37 C.F.R. §1.2, no attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

With the supplemental petition, Petitioner has asserted that the Office action was mailed to the wrong address. It is noted that a Revocation of Power of Attorney with new Power of Attorney and Change of Correspondence Address was received in the Office along with a Preliminary

Amendment on July 13, 2004, the same day on which the Office action was mailed[1]. However, it is noted that Petitioner has not stated that the notice was never received. As such, it is not clear if Petitioner was in possession of the Office action via the forwarding of the same.

As such, the showing in the instant petition is not sufficient to withdraw the holding of abandonment. On renewed petition, Petitioner will need to meet the requirements of Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), as discussed in MPEP §711.03(c).

As such, this petition must be **DISMISSED**.

Any response to 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 response should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181(a)," although Petitioner may also wish to consider concurrently filing 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[2], hand-delivery[3], or facsimile[4].

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

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

1 Pursuant to MPEP §402.05, revocation of the power of attorney becomes effective on the date that the revocation is received in the Office.
2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

JAN 13 2006

TECHNOLOGY CENTER 3600

LAWRENCE N. GINSBERG
21 SAN ANTONIO
NEWPORT BEACH CA 92660-9112

In re Application of
Mark E. Anderson et al.
Application No. 10/693,660
Filed: Ocotober 24, 2003
For: METHOD AND APPARATUS FOR CREATING A PATHWAY IN AN ANIMAL

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response the petition to withdraw the holding of abandonment under 37 CFR 1.181 received March 20, 2005. There is no fee for this petition.

The petition is **DENIED**.

A review of the file record indicates that the application was held abandoned for failing to file a proper response to the Office Action mailed July 13, 2004, which set a shortened statutory reply period of three-months. A Notice of Abandonment was mailed on February 24, 2005.

Applicant requests that the holding of abandonment be withdrawn and the prosecution of the case be reopened because a Preliminary Amendment was mailed on July 8, 2004 (it is noted that the Certificate of Mailing on this amendment reflects a mail date of July 9, 2004, rather than July 8, 2004) which "crossed in the mail" with the Office Action mailed July 13, 2004. Applicant's representative notes that he was in telephone communication with the Examiner and was under the impression that no action was necessary in response to the Office Action and that a new Office Action would be issued.

37 CFR 1.2 recites all business with the Patent and Trademark Office should be transacted in writing. 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. As there is no written record within the three-month shortened statutory reply period of any agreement of a supplemental Office Action being issued or of Applicant notifying the Office that the Office Action of July 13, 2004, was issued on the claims as originally filed rather than the claims as amended in the Preliminary Amendment mailed July 9, 2004, the Abandonment of this application, mailed February 24, 2005, is deemed proper.

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

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(l); and **(3)** an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

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

II. Unintentional Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (**2**) the petition fee required by 37 CFR 1.17(m); and (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

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

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

Further correspondence with respect to a petition to revive 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

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

for

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/rjc 07/21/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAWRENCE N. GINSBERG
21 SAN ANTONIO
NEWPORT BEACH, CA 92660-
9112

COPY MAILED

SEP 28 2006

OFFICE OF PETITIONS

In re Application of

Anderson, et al. :

Application No. 10/693,660

: DECISION ON PETITION

Filed: October 24, 2003

:

Attorney Docket No. MEA-0201-C2

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 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 July 13, 2004, which set a shortened statutory period for reply of three 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 October 14, 2004. A Notice of Abandonment was mailed on February 24, 2005.

The amendment filed March 8, 2006, is noted.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office

The application is being forwarded to Technology Center 3600, GAU 2644 for further processing.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

COPY MAILED
AUG 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Oded Katzman et al	:	
Application No. 10/693,665	:	DECISION GRANTING PETITION
Filed: October 27, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 25794	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 14, 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 April 15, 2005. A Notice of Abandonment was mailed on September 22, 2005.

The rule at 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 of the rule, the statement is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement appearing in the petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election to the restriction requirement; (2) the $750 petition fee; and (3) an adequate statement of unintentional delay have been received. Accordingly, the reply to the Office action of March 14, 2005 is accepted as having been unintentionally delayed.

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 $1,080 extension of time fee submitted with the petition on January 3, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

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

This matter is being referred to Technology Center AU 3723 for appropriate action in the normal course of business on the reply received January 3, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Aug-08

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

COPY MAILED

SEP 02 2008

In re Application of	:	
Marel et al.	:	DECISION ON PETITION
Application Number: 10/693679	:	TO WITHDRAW HOLDING OF
Filing Date: 10/23/2003	:	ABANDONMENT
Attorney Docket Number: B-5275	:	
621391-0	:	

This is a decision on the "PETITION FOR WITHDRAWAL OF ABANDONMENT," filed on July 16, 2008, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed on April 9, 2007. Notice of Abandonment was mailed on June 11, 2008.

Petitioners assert that a timely response was in fact filed in the form of an amendment in response to the non-final Office action and a one (1) month extension of time. In support of the petition, petitioners submitted a copy of a date-stamped post card receipt acknowledging receipt of, *inter alia*, a Response to Official Action and a Petition for Extension of Time in the United States Patent and Trademark Office (Office) on August 3, 2007. Additionally, petitioners have submitted a copy of the Response (amendment), and petition for extension of time.

Petitioners' response to the final Office action 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 and one (1) month extension of time were received in the Office but were not matched with the application file.

Additionally, the amendment and one (1) extension of time filed with the present petition bears a proper certificate of mailing, dated July 31, 2007, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above.

Consequently, there is no abandonment in fact.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

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

Cc:

RICHARD P. BERG
LADAS & PERRY
5670 WILSHIRE BLVD, SUITE 2100
LOS ANGELES, CA 90036

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAWRENCE CRUZ
12 GOOD HILL RD.
BETHEL, CT 06801

COPY MAILED

OCT 03 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Farid Bruce Khalili :
Application No. 10/693,698 :
Filed: October 27, 2003 :
Attorney Docket No. Ve 013 :

This is a decision on the petition under 37 CFR 1.137(b) filed August 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 Notice to File Corrected Application Papers mailed August 11, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 12, 2004.

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, the $1080 extension of time submitted on August 11, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded by treasure check in due course.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of Replacement drawings; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed August 11, 2005 is accepted as having been unintentionally delayed.

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

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 2 0 2010

OFFICE OF PETITIONS

GIBSON & DERNIER LLP
900 ROUTE 9TH NORTH
SUITE 504
WOODBRIDGE NJ 07095

In re Application of	:	
Farid Bruce KHALILI	:	
Application No. 10/693,698	:	DECISION ON PETITION
Filed: October 27, 2003	:	
Attorney Docket No. 622/21	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 3, 2009, 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 April 4, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 3733 for appropriate action by the Examiner in the normal course of business.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

NOV 04 2004

OFFICE OF PETITIONS

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

In re Application of :
Karatal, et al. : DECISION ON PETITION
Application No. 10/693,718 :
Filed: October 24, 2003 :
Atty. Dkt. MS1-1792US :

This decision is in response to the petition filed August 20, 2004 under 37 CFR 1.183 to waive the requirements of 37 CFR 1.52(e).

The petition under 37 CFR 1.183 is hereby **GRANTED**.

37 CFR 1.52(e)(3)(ii) requires that each compact disc submitted must be accompanied by a transmittal letter listing for each compact disc the machine format (e.g., IBM-PC, Macintosh), the operating system compatibility (e.g., MS-DOS, MS-Windows, Macintosh, Unix), a list of files contained on the compact disc including their names, sizes in bytes, and dates of creation, plus any other special information that is necessary to identify, maintain, and interpret the information on the compact disc.

Petitioners have established that the size of the data contained on the disks makes it burdensome for applicant to submit and for the Office to process if submitted a paper listing for each compact disc in accordance with 37 CFR 1.52(e)(3)(ii).

Accordingly, pursuant to 37 CFR 1.183, 37 CFR 1.52(e)(3)(ii) is hereby suspended thus allowing the transmittal letter listing of all the files contained on the sets of three compact discs filed with the application, including their names, sizes in bytes, and dates of creation, to be submitted in the tables on the accompanying discs. Further, pursuant to 37 CFR 1.183, 37 CFR 1.52(e)(5) is hereby suspended thus allowing the specification listing of all the files contained on the sets of three compact discs filed with the application, including their names, sizes in bytes, and dates of creation, to be submitted in the tables on the accompanying discs.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEIMLICH LAW
5952 DIAL WAY
SAN JOSE CA 95129

COPY MAILED

SEP 21 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Douglas R. Swarts :
Application No. 10/693,719 :
Filed: October 24, 2003 :
Attorney Docket Number: 006386.P002 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2005, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed January 21, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned April 22, 2005. Accordingly, a Notice of Abandonment was mailed August 9, 2005.

Petitioner files the instant petition under 37 CFR 1.137(b). [1]

This application is being forwarded to Technology Center 3753 for appropriate action on the amendment filed September 2, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WADE J. CHILTON
195 NURSERY LANE
ARARAT, NC 27007

MAILED

MAY 03 2010

OFFICE OF PETITIONS

In re Patent No. 6,959,785	:	
Issue Date: November 1, 2005	:	
Application No. 10/693,725	:	ON PETITION
Filed: April 24, 2003	:	
Patentee: Wade J. Chilton	:	

This is a decision on the petition under 37 CFR 1.378(c), filed February 22, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 1, 2009 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The 3 ½ year maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a 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 matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JEFFREY A. PROEHL
WOODS, FULLER, SHULTZ & SMITH, P.C.
POST OFFICE BOX 5027
SIOUX FALLS, SD 57117-5027

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 6959785 Total Records Found: 1

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
03/03/2010	00000002	2	1599	$2,130.00	02/22/2010	CK

Adjustment date: 05/03/2010 LDIEP1
03/03/2010 DALLEN 00000002 6959785
01 FC:1599 -2130.00 OP

05/03/2010 LDIEP1 00000008 6959785
01 FC:2551 490.00 OP
02 FC:1558 1640.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

APR 2 5 2006

OFFICE OF PETITIONS

Winston & Strawn LLP
1700 K Street N.W.
Washington DC 20006-3817

In re Application of
Linton
Application No. 10/693,739
Filed: October 24, 2003
Attorney Docket 10451.0059.NPUS01

: DECISION GRANTING PTA REQUEST

This decision is in response to Applicants' "LETTER REGARDING RECALCULATION OF PATENT TERM ADJUSTMENT" timely[1] filed on June 07, 2005 requesting that the Office review the 75-day error in the PTA entry for notice of allowance. The Office construes this request as a letter of good faith and candor regarding PTA and accordingly will not assess a fee in bring this discrepancy to the Office's attention.

Applicant's request is **GRANTED.** The Office will also adjust the PTA calculation reflected in PAIR to reflect this decision.

Applicants argue that the Office erred in granting applicants seventy-five days (75) days for the Office's failure to initially act within 14 months of the filing of the application under 37 CFR 1.702(a)(1).

Applicants' argument have been considered and deemed persuasive. A review of the record reveals that the Office did not violate any of the requirements of 37 CFR 1.702. The seventy-five day Office delay assessed is in error. The Office met the 14-month requirement on March 10, 2004. Applicant failed to meet the requirement of 37 CFR 1.704(b) on one occasion. The applicant responded to the 8/17/2004 rule 105 communication on December 17, 2004, a thirty (30) day delay. Accordingly, at the time of the mailing of the notice of allowance the correct PTA determination is zero (0-30=0) days. It is noted that in order for applicant to receive any PTA at the time of the issuance of the patent, the Office must have delayed under 37 CFR 1.702(a)(4) or 1.702(b) by a period of at least 31 days.

After the mailing of this Office action, the Office will forward such application to the Office of Patent Publication for a prompt issuance of the patent. Any delays in not issuing the patent within four months of the payment of the issue fee under 37 CFR 1.704(a)(4) will be reflected in

[1]Issue fee paid on June 7, 2005.

the issue notification letter that is mailed to applicant approximately three weeks prior to issuance of the patent.

The applicant has authorized payment of $200.00 as the fee. However, the Office will not assess the $200.00 fee if applicants out of good faith and candor concerns are bringing to our attention a PTA determination that is greater than what applicants believed the determination correctly should have been calculated.

Any questions concerning this determination should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Adm.
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted PAIR calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DOCKET CLERK
P.O. DRAWER 800889
DALLAS, TX 75380

COPY MAILED

SEP 23 2009

OFFICE OF PETITIONS

In re Application of
Purva R. Rajkotia
Application No. 10/693,753
Filed: October 24, 2003
Attorney Docket No. 2003.07.003.WS0

DECISION ON PETITION

This is a decision on the petition, filed August 5, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of November 17, 2008, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before February 17, 2009.

Petitioner states that a timely reply was mailed via certificate of mailing on February 11, 2009, which included the following papers: Request for Continued Examination (RCE) Transmittal, check in the amount of $810 for the RCE filing fee and a post card receipt. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated February 11, 2009, 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 November 17, 2008 is hereby **withdrawn** and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on February 11, 2009.

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.

This application is being referred to Technology Center AU 2618 for appropriate action in the normal course of business on the reply received with petition.

/dab/
David Bucci
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

DUFT BORNSEN & FISHMAN, LLP
1526 SPRUCE STREET
SUITE 302
BOULDER, CO 80302

Mail Date: 05/03/2010

Applicant	: Hong Li	: DECISION ON REQUEST FOR
Patent Number	: 7639392	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/693,760	: 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 **1831** 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.

RECEIPT

3600.5209.D2

PATENT

OIPE JC173
FEB 2 0 2004
PATENT & TRADEMARK OFFICE

CERTIFICATE OF MAILING

I hereby certify that this correspondence is, on the date below, being deposited with the U.S. Postal Service as first-class mail in an envelope addressed to the Commissioner for Patents, Alexandria VA 22313-1450.

Date: 11 February 2004 Ingrid C. Mallory

Ingrid C. Mallory

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Ling Chen et al.	Docket: AM-5209.D2
Serial No.	10/693,775	Group No. 2813
Filed:	October 25, 2003	Examiner: Unknown

For: "TANTALUM BARRIER LAYER FOR COPPER METALLIZATION"

Assistant Commissioner for Patents
Attn: Office of Initial Patent Examination
Customer Service Center
Alexandria, VA 22313-1450

REQUEST FOR CORRECTED FILING RECEIPT

Attached is a copy of the official Filing Receipt received from the U.S. Patent and Trademark Office in the above-referenced patent application, for which issuance of a corrected Filing Receipt is respectfully requested.

The error to be corrected is as follows:

1. The filing date of October 25, 2003 needs to be changed to October 24, 2003. The Express Mail Receipt is attached showing it was date stamped October 24, 2003.

The correction is due to a Patent Office error and no fee is believed to be necessary.

The Commissioner is authorized to charge to Deposit Account No. 50-0636 any fees required to correct any errors in nonpayment or improper payment of a required fee.

Respectfully submitted

Date: 11 Feb. 2004

Charles S. Guenzer, Reg. No. 30,640
Attorney for Applicant(s)

Mailing Address:
Applied Materials, Inc.
Patent/Legal Department
P.O. Box 450A
Santa Clara, CA 95052

OIPE JC173
FEB 2 0 2004
PATENT & 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
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/693,775	10/25/2003	2813	770	AM-5209.D2	7	16	3

10/24/2003

CONFIRMATION NO. 1973

FILING RECEIPT

OC000000011765890

Applied Materials, Inc.
Patent / Legal Dept.
M/S 2061
P.O. Box 450A
Santa Clara, CA 95052

FEB 0 4 2004

Date Mailed: 01/26/2004

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

RECEIVED
FEB 0 9 2004
LAW OFFICES OF
CHARLES GUENZER

Applicant(s)

Ling Chen, Sunnyvale, CA;
Seshadri Ganguli, Sunnyvale, CA;
Wei Cao, Milpitas, CA;
Christophe Marcadal, Santa Clara, CA;

Domestic Priority data as claimed by applicant

This application is a DIV of 10/290,746 11/07/2002 PAT 6,660,622
which is a DIV of 09/704,161 11/01/2000 PAT 6,498,091

Foreign Applications

If Required, Foreign Filing License Granted: 01/26/2004

Projected Publication Date: 05/06/2004

Non-Publication Request: No

Early Publication Request: No

Title

Docketed: 2/09/04 [illegible]

Tantalum barrier layer for copper metallization

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).

OIPE JC173
FEB 2 0 2004
PATENT & TRADEMARK OFFICE

EV 291189525 US

Customer Copy
Label 11-F June 2002

EXPRESS MAIL
UNITED STATES POSTAL SERVICE®

Post Office To Addressee

ORIGIN (POSTAL USE ONLY)

PO ZIP Code 94306	Day of Delivery ☒ Next ☐ Second	Flat Rate Envelope ☐
Date In 102503 Mo. Day Year	☒ 12 Noon ☐ 3 PM	Postage $ 13.65
Time In 1251 ☐ AM ☒ PM	Military ☐ 2nd Day ☐ 3rd Day	Return Receipt Fee
Weight 7.60 lbs. ozs.	Int'l Alpha Country Code	COD Fee / Insurance Fee
No Delivery ☐ Weekend ☐ Holiday	Acceptance Clerk Initials KL	Total Postage & Fees $ 13.65

DELIVERY (POSTAL USE ONLY)

Delivery Attempt Mo. Day	Time ☐ AM ☐ PM	Employee Signature
Delivery Attempt Mo. Day	Time ☐ AM ☐ PM	Employee Signature
Delivery Date Mo. Day	Time ☐ AM ☐ PM	Employee Signature

☐ **WAIVER OF SIGNATURE** *(Domestic Only)* Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.

NO DELIVERY ☐ Weekend ☐ Holiday

Customer Signature

CAMBRIDGE USPS OCT 2 2003

CUSTOMER USE ONLY

METHOD OF PAYMENT: 94076[illegible]

Express Mail Corporate Acct. No.

Federal Agency Acct. No. or Postal Service Acct. No.

FROM: (PLEASE PRINT) PHONE ( )

LAW OFFICES OF
CHARLES GUENZER
PO BOX 60729
2211 PARK BLVD
PALO ALTO CA 94306-0729

3600.5209.D2

TO: (PLEASE PRINT) PHONE ( )

BOX: New Applications
COMMISSIONER OF PATENTS
PO BOX 1450
ALEXANDRIA VA 22313-1450

PRESS HARD.
You are making 3 copies.

FOR PICKUP OR TRACKING CALL 1-800-222-1811 www.usps.com

EMS

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Duft Bornsen & Fishman, LLP
1526 Spruce Street
Suite 302
Boulder, CO 80302

COPY MAILED

JUN 30 2008

In re Application of	:	
Larry M. Ernst et al.	:	
Application No. 10/693,783	:	DECISION ON PETITION
Filed: October 24, 2003	:	
Attorney Docket No. BLD920030007US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 28, 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 March 19, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 19, 2007. Accordingly, the date of abandonment of this application is March 20, 2008. A Notice of Abandonment was mailed on April 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

This application is being referred to the Office of Data Management for further processing into a patent.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 030105

MARK D. BROWN
STEARNS WEAVER MILLER
WEISSLER ALHADEFF & SITTERSON, P.A.
SUITE 1900
200 EAST BROWARD BOULEVARD
FORT LAUDERDALE FL 33301

APR - 4 2005

In re Application of:	:	
WILLIAM FONDRIEST	:	
Application No. 10/693,801	:	DECISION ON PETITION
Filed: October 24, 2003	:	TO MAKE SPECIAL
Attorney Docket No. 36846.003	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed March 15, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN - 4 2004

AKZO NOBEL PHARMA PATENT DEPARTMENT
29160 INTERVET LANE
MILLSBORO DE 19966

In re Application of	:
Ivo Franci Eggen et al	:
Serial No.: 10/693,802	: PETITION TO MAKE SPECIAL
Filed: October 23, 2003	:
Attorney Docket No.: 06244.00002	:

This is in response to applicants' petition filed October 23, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gary J. Edwards
Finnegan, Henderson, Farabow
Garrett & Dunner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

COPY MAILED
JUN 06 2006
OFFICE OF PETITIONS

In re Application of	:	
Ke Yu Chang	:	DECISION ON REQUEST
Application No. 10/693,814	:	TO WITHDRAW FROM
Filed: October 24, 2003	:	RECORD
Attorney Docket No. 9182.0004-00	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed on November 22, 2005.

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

A review of the file record indicates that the power of attorney to all the attorneys or agents of record have been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

This application file is being referred to Technology Center Art Unit 2628 for review of the amendment filed April 26, 2006.

Telephone inquires concerning this decision should be directed to Andrea Smith at (571) 272- 3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: dp

cc: LARSON NEWMAN ABEL POLANSKY & WHITE, LLPL.
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN, TX 78746

JEFF TOLER
IP LEGAL SERVICES
5000 PLAZA ON THE LAKE, SUITE 265
AUSTIN, TX 78746

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HENRY M FEIEREISEN, LLC
350 FIFTH AVENUE
SUITE 4714
NEW YORK NY 10118

COPY MAILED

NOV 0 2 2005

OFFICE OF PETITIONS

In re Patent No. 6,889,955	:	
Issued: 10 May, 2005	:	
Application No. 10/693,831	:	ON PETITION
Filed: 24 October, 2003	:	
Atty Docket No. SCHUNKE-3	:	

This is a decision on the petition filed on 8 September, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **dismissed**.

Petitioners request that a Certificate of Correction be issued in the name of "RK Rose + Krieger GmbH & Co. KB Verbindungs- und Positioniersysteme.-" 37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. U.S. Patent and Trademark Office assignment records disclose that an assignment in the name of the assignee listed above was recorded on 31 August, 2005, after the patent issued on 10 May, 2005. Accordingly, since there is no evidence that the assignment was submitted for recordation, if at all, until after issuance of this patent, issuance of a certificate of correction would not be proper.[2]

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be

---

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

[2] See also MPEP 307.

> corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

It is noted that petitioner submitted $400.00 with the present petition. However, only a processing fee of $130.00 and certificate of correction fee of $100.00 are due. Additionally, since a Certificate of Correction is not in order, the fee submitted of $400.00 will be credited to counsel's deposit account, No. 06-0502.

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 inquires concerning this matter may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Trishul Chilimbi	: DECISION ON REQUEST FOR
Patent Number	: 7587709	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/693,834	: 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 **769** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 07-06

Paper No: __

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

COPY MAILED

JUL 19 2006

OFFICE OF PETITIONS

In re Application of :
Goman, et al. :
Application No. 10/693,836 :
Filing Date: 23 October, 2003 :
Attorney Docket No.: 457.010US3 :

DECISION

This is a decision on the petition filed on 21 June, 2004, seeking withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petition was received by the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below, the petition considered under 37 C.F.R.§1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[1]

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 18 October, 2004, with reply due absent extension of time on or before 18 January, 2005;
- on 18 April, 2005, Petitioner filed a Notice of Appeal with fee, with a request and fee for extension of time;
- on 23 November, 2005, filed a request for continued examination (RCE) with fee and submission in the form of an amendment in conformance with 37 C.F.R. §1.114;
- the Office mailed a Notice of Abandonment on 30 November, 2005;
- on 21 June, 2006–nearly seven months after Petitioner's acknowledged receipt of the Notice of Abandonment–Petitioner filed the instant petition alleging timely reply over certificate of mailing, and providing what are averred to be true copies of, *inter alia*, the RCE with submission (with request and fee for extension of time) and date-stamped ("NOV 23 2005 OIPE") receipt card (see: MPEP §503[2]).

---

[1] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

[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

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

---

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.)

[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,

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.

---

or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of—

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and of a holding of abandonment.[9]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was

---

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

> mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Thus, as of this writing Petitioner appears not to have satisfied and not to be able to satisfy the timing requirement described above.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment may be petition alleging unintentional delay under 37 C.F.R. §1.137(b).[10]

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that

[10] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

"the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[11]

By mail: Commissioner for Patents[12]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 08-06

Paper No: __

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

COPY MAILED

JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Goman, et al.	:	
Application No. 10/693,836	:	DECISION
Filing Date: 23 October, 2003	:	
Attorney Docket No.: 457.010US3	:	

This is a decision on the petition filed on 26 July, 2006, alleging unintentional delay and seeking revival under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 18 October, 2004, with reply due absent extension of time on or before 18 January, 2005;
- on 18 April, 2005, Petitioner filed a Notice of Appeal with fee, with a request and fee for extension of time;
- on 23 November, 2005, filed a request for continued examination (RCE) with fee and submission in the form of an amendment in conformance with 37 C.F.R. §1.114;
- the Office mailed a Notice of Abandonment on 30 November, 2005;

- on 21 June, 2006–nearly seven months after Petitioner's acknowledged receipt of the Notice of Abandonment–Petitioner filed the instant petition alleging timely reply over certificate of mailing, and providing what are averred to be true copies of, *inter alia*, the RCE with submission (with request and fee for extension of time) and date-stamped ("NOV 23 2005 OIPE") receipt card (see: MPEP §503[1])–the petition was dismissed on 19 July, 2006, for failure to seek relief timely;

- the instant petition seeks to remedy those deficiencies.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate

---

[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.)

documentation–since all owe to the Office the continuing duty to disclose.[2]

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]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and of a holding of abandonment.[8]

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.

Petitioner appears to have satisfied the regulatory requirements.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

---

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

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

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

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

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

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAY 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert N, Goman, et al.	:	
Application No. 10/693,836	:	DECISION GRANTING PETITION
Filed: October 23, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 457.010US3	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 19, 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 30, 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 2887 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.*

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

tm

Mailed: 8-31-07

In re application of :
Lyons, Karen et al. : DECISION ON
Serial No. 10/693,845 : PETITION
Filed: October 20, 2003 :
For: PLATINUM-IMPREGNATED HYDROUS TIN OXIDE CATALYSTS

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed May 23, 2007.

On October 6, 2006, a non-final office action was mailed to applicant rejecting claim 3 under 35 USC 112, second paragraph, claims 1, 2, 4, 10-12, 17 and 18 under 35 USC 102 over Watanabe et al., claims 1, 2, 4, 5, 12, 13, 15, and 17 under 35 USC 102 over Gardner et al., claims 1-4 under 35 USC 102 over Katayama, and claims 1, 2, and 4-16 under 35 USC 103 over Watanabe in view of Watanabe et al.. A reply to the office action was filed by Applicant on January 5, 2007. In the reply, Applicant amended claim 3 to incorporate language proposed in the non-final office action for overcoming the 35 USC 112, second paragraph rejection. A final office action was mailed by the office on March 23, 2007 in which the rejection of claims 1-4 under 35 USC 102 over Katayama was withdrawn and two new grounds of rejection were set forth over claim 3 under 35 USC 103, Watanabe et al. in view of Katayama and Gardner et al. in view of Katayama.

On May 22, 2007, the instant petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of finality of the March 23, 2007 office action, along with a response to the final rejection.

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

DECISION

Section 706.07 of the MPEP states:

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

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

Petitioner argues that the amendments made to claim 3 were of a trivial nature, the effect of which was only for values near 30% and that the new grounds of rejection cite only references cited in the prior non-final office action, therefore, the new grounds of rejection were not necessitated by Applicant's amendments to the claims. This argument is persuasive. The new grounds of rejection over claim 3 were clearly not necessitated by Applicant's amendment because the small change, if any, in the weight percentage range in claim 3 as amended did not necessitate withdrawing the rejection of claims 1-4 under 35 USC 102 over Katayama and making the new grounds of rejection of claim 3 under 35 USC 103 over Watanabe et al. in view of Katayama and Gardner et al. in view of Katayama.

Because the rejection of claim 3 based on a new ground of rejection was improper, the finality of the office action was premature. Accordingly, the petition for withdrawal of finality is **GRANTED.**

It is also pointed out that while the finality of the office action has been withdrawn, the rejection still stands. Applicant's time for response continues to run from March 23, 2007. Extensions of time may be obtained to file any amendments.

Jacqueline M. Stone

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OFFICE OF COUNSEL, CODE 004
NAVAL SURFACE WARFARE CENTER,
CARDEROCK DIVISION
9500 MACARTHER BLVD.
WEST BETHESDA, MD 20817

COPY MAILED

JUN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
James M. QUIGLEY	:	
Application No. 10/693,849	:	DECISION ON PETITION
Filed: October 17, 2003	:	TO WITHDRAW
Attorney Docket No. 84,605	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **APPROVED**.

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

Scott R. Boalick has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUN 26 2006

OFFICE OF PETITIONS

FitzPatrick, Cella Harper & Scinto
30 Rockefeller Plaza
New York, New York 10112-3801

In re Application of
Koyanagi et al.
Application No. 10/693,859
Patent No. 6,952,551 B2
Filed: October 28, 2003
Attorney Docket No. 03500.017664

: DECISION REGARDING PTA

This decision is in response to Applicants' "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT" filed on November 23, 2005 asserting that incorrectly determined the amount of days for USPTO and/or applicant's delay. The Office thanks applicants for their good faith and candor in bring this letter to the attention of the Office.

Applicants letter is **GRANTED.** The Office will increase the amount of applicant delay occurring during the prosecution of the application by an additional 22 days. The Office will *sua sponte* issue a certificate of correction reflecting that the correct amountof PTA at the time of the issuance of the patent is 22 days.

Applicants are given 30 days to respond to this decision. If applicants agree with this decision, applicant need not reply. No extensions of time will be granted under 37 CFR 1.136.

The Office notes that the date of receipt of the drawings was improperly entered into the PALM record as June 29, 2005 rather than the actual date of June 6, 2005. Accordingly, the delay for the drawing submission under 37 CFR 1.704(c)(10) was 120 days not 98 days. The Office delayed 142 days under 37 CFR 1.702(a)(1) and applicants delayed 120 days under 37 CFR 1.704 (c)(10). Accordingly, the correct amount of PTA is 22 (142-120 = 22) days.

After the mailing of the Office action, the file will be forwarded to the certificate of correction branch to await the 30 day response period and then issue the certificate of correction

Because applicants have submitted this letter in response to good faith and candor, the Office will not assess any fees concerning the amount of Patent Term Adjustment.

Any questions concerning this determination 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 Fries

Kery 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

Day : Sunday
Date: 6/25/2006

PALM INTRANET

Time: 16:08:06

PTA Calculations for Application: 10/693859

Application Filing Date:	10/28/2003	PTO Delay (PTO):	142
Issue Date of Patent:	10/04/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	98
Post-Issue Petitions:	0	Total PTA (days):	22
PTO Delay Adjustment:	-22		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
37	06/25/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		22	
32	10/04/2005	PATENT ISSUE DATE USED IN PTA CALCULATION			
31	08/12/2005	RECEIPT INTO PUBS			
30	08/12/2005	DISPATCH TO FDC			
29	08/12/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
28	06/29/2005	WORKFLOW - DRAWINGS FINISHED		98	
27	06/29/2005	ISSUE FEE PAYMENT VERIFIED			
26	06/29/2005	ISSUE FEE PAYMENT RECEIVED			
25	06/20/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
24	05/29/2005	EXPORT TO INITIAL DATA CAPTURE			
23	05/19/2005	MAIL NOTICE OF ALLOWANCE	142		-1
22	05/19/2005	MAIL FORMAL DRAWINGS REQUIRED			
21	05/18/2005	ISSUE REVISION COMPLETED			
20	05/16/2005	FORMAL DRAWINGS REQUIRED			
19	05/16/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
18	05/16/2005	NOTICE OF ALLOWABILITY			
17	09/26/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	04/28/2004	CORRECTED FILING RECEIPT			
15	01/13/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
14	01/13/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
13	12/09/2003	REFERENCE CAPTURE ON IDS			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

12	12/09/2003	FILED			
11	10/28/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	09/26/2004	CASE DOCKETED TO EXAMINER IN GAU			
9	08/24/2004	APPLICATION RETURN FROM OIPE			
8	08/24/2004	APPLICATION RETURN TO OIPE			
7	08/24/2004	APPLICATION DISPATCHED FROM OIPE			
6	08/24/2004	APPLICATION IS NOW COMPLETE			
4	01/20/2004	CLEARED BY OIPE CSR			
3	01/20/2004	CASE CLASSIFIED BY L&R			
2	12/10/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/28/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,952.551 B2

DATED : Oct. 4, 2005

INVENTOR(S) : Koyanagi 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 (44) days

Delete the phrase "by 44 days" and insert – by 22 days--

US006952551B2

(12) **United States Patent**
Koyanagi et al.

(10) **Patent No.: US 6,952,551 B2**
(45) **Date of Patent: Oct. 4, 2005**

(54) **DEVELOPER CARRYING MEMBER AND DEVELOPING APPARATUS**

(75) Inventors: **Masato Koyanagi**, Shizuoka (JP); **Yasuyuki Ishii**, Shizuoka (JP)

(73) Assignee: **Canon Kabushiki Kaisha**, Tokyo (JP)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 44 days.

(21) Appl. No.: **10/693,859**

(22) Filed: **Oct. 28, 2003**

(65) **Prior Publication Data**

US 2004/0240910 A1 Dec. 2, 2004

(30) **Foreign Application Priority Data**

Oct. 30, 2002 (JP) 2002-316896
Oct. 20, 2003 (JP) 2003-359898

(51) **Int. Cl.**[7] **G03G 15/08**
(52) **U.S. Cl.** **399/286**
(58) **Field of Search** 399/286, 279, 399/265; 492/30, 59

(56) **References Cited**

U.S. PATENT DOCUMENTS

3,863,603 A * 2/1975 Buckley et al. 399/279
5,177,538 A * 1/1993 Mammino et al. 399/265
5,286,917 A * 2/1994 Unno et al. 399/279
5,741,616 A * 4/1998 Hirano et al. 399/286
6,360,069 B1 * 3/2002 Mimura et al. 399/286
6,430,384 B2 * 8/2002 Hama et al.
6,574,444 B2 6/2003 Uehara et al. 399/103
6,594,462 B2 7/2003 Ishii et al. 399/281
6,841,327 B2 * 1/2005 Otake et al.

FOREIGN PATENT DOCUMENTS

JP 4-88382 3/1992

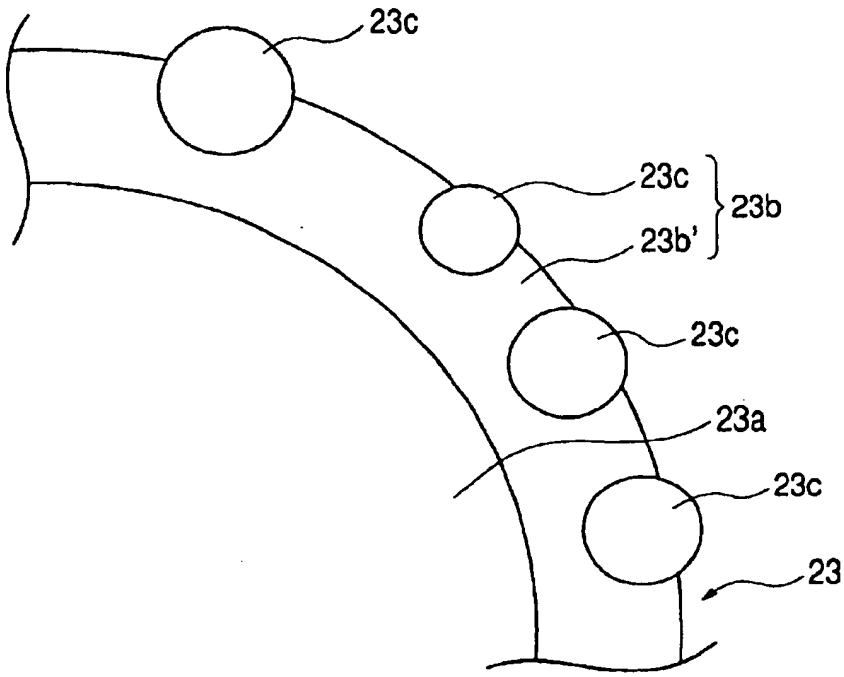
* cited by examiner

Primary Examiner—Susan Lee
(74) *Attorney, Agent, or Firm*—Fitzpatrick, Cella, Harper & Scinto

(57) **ABSTRACT**

The invention provides a developer carrying member for carrying a developer for developing an electrostatic image formed on an image bearing member, including an elastic layer, and a surface layer provided on a surface of the developer carrying member and including a resin and particles, wherein the particles have a property of being frictionally charged in a polarity opposite to a normal charging polarity of the developer, and the particles are exposed from the surface in an area rate within a range from 15 to 60% with respect to a surface area of the developer carrying member. In this manner, an uneven heating of the toner image can be suppressed even if the recording material generates an undulation after passing a nip.

20 Claims, 10 Drawing Sheets



UNITED STATES 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

COPY MAILED

AUG 21 2007

OFFICE OF PETITIONS

In re Application of
Birkhead et al.
Application No.10/693,867
Filed: October 28, 2003
Attorney Docket No. 026611-000100US

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed July 9, 2007.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on January 5, 2007. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was submitted on March 5, 2007. In response to the amendment an Advisory Action was mailed on April 4, 2007 indicating the amendment submitted on March 5, 2007 did not place the application in condition for allowance. Accordingly, this application became abandoned on April 6, 2007. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

A three (3) month extension of time was requested. However, pursuant to 37 CFR §1.136, an extension of time must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988) Petitioner's six (6) month statutory period expired on July 6, 2007. Petitioner is ineligible for any extensions of time. The $510 extension of time fee will be refunded. Further review of the record shows that this application is a utility application filed after June 8, 1995. Accordingly, a terminal disclaimer to accompany a petition is not required. The $130.00 terminal disclaimer fee will be refunded to deposit account no. 20-1430.

The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)), will run from the mail date of this petition decision.

The application will be forwarded to Technology Center 2600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KIA SILVERBROOK
SILVERBROOK RESEARCH PTY LTD
393 DARLING ST
BALMAIN 2041 AU AUSTRALIA

COPY MAILED
JUN 2 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Kia SILVERBROOK	:	
Application No. 10/693,869	:	DECISION ON PETITION
Filed: October 28, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ZG008US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 7, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A

benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. It is unclear from the amendment filed June 7, 2006 as to which application Application No. 09/485,785 is a continuation of, *i.e.*, is it a continuation of Application No. 10/693,869 or is it a continuation of Application No. 10/171,627.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment or an Application Data Sheet (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) which state the relationship of the prior-filed application to this application are required.

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

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

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

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

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

Brian Hearn
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

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

COPY MAILED
JUL 26 2006
OFFICE OF PETITIONS

In re Application of	:
Kia SILVERBROOK	:
Application No. 10/693,869	: DECISION ON PETITION
Filed: October 28, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ZG008US	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 6, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The 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 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 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 Technology Center Art Unit 2854 for appropriate action on the amendment filed July 6, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Brian Hearn
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
10/693,869	10/28/2003	2854	1070	ZG008US	37	8	2

CONFIRMATION NO. 4110

REPLACEMENT FILING RECEIPT

OC000000019748075

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, NSW 2041
AUSTRALIA

Date Mailed: 07/25/2006

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)

Kia Silverbrook, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/171,627 06/17/2002 PAT 6,652,089
which is a CON of 09/458,785 12/10/1999 PAT 6,447,113

Foreign Applications

AUSTRALIA PP7737 12/16/1998
AUSTRALIA PP7738 12/19/1998
AUSTRALIA PP9962 12/16/1998

If Required, Foreign Filing License Granted: 08/11/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/693,869

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

INKJET PRINTER INCORPORATING AN INK TRANSFER ROLLER

Preliminary Class

347

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 7/15/09

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/693869 Patent No.: 7144095 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 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: _____

/Judy Nguyen/
SPE

2854
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

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

COPY MAILED

OCT 14 2004

OFFICE OF PETITIONS

In re Application of
Isabelle Rollat et al.
Application No. 10/693,899
Filed: October 28, 2003
Attorney Docket No. 5725.0912-01

: DECISION GRANTING PETITION

This is a decision on the petition filed September 16, 2004, requesting that the above-identified application be accorded a filing date of October 28, 2003, with a complete specification as a part of the original disclosure, which is treated under 37 CFR 1.53.

The petition is **GRANTED**.

The application was filed on October 28, 2003. However, on August 25, 2004, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because a complete specification in compliance with 35 U.S.C. § 112 and an oath or declaration in compliance with 37 CFR 1.63 were missing.

In response, on September 16, 2004, the present petition was filed, accompanied by, inter alia, 80 pages of specification and a 4 page oath or declaration. Petitioners assert that the above-identified application is a divisional of Application No. 09/886,013 filed June 22, 2001.

A search of the official file reveals that on October 28, 2003, a "Utility Patent Application Transmittal" letter indicated that the application was a divisional of application No. 09/886,013, and that the entire disclosure from the prior application is incorporated by reference.

Based on petitioners' representation that the papers supplied with the petition constitute a copy of the "entire submission" of the present application, and the incorporation by reference statement appearing on the transmittal letter deposited on October 28, 2003, stating that the entire disclosure of Application No. 09/886,013 was incorporated by reference in the present application, it appears that the specification was present in the Office on October 28, 2003, albeit in the file of another application, *i.e.,* Application No. 09/886,013. Therefore, on petition, the application may be accorded the requested

filing date.

The application will be processed and examined with the 80 pages of specification and 4 page oath or declaration supplied on September 16, 2004, as a part of the original disclosure.

Since the petition was required to accord the requested filing date, the petition fee of $130.00 will not be refunded.

The primary examiner is expected to compare the specification and oath or declaration supplied on September 16, 2004, to the disclosure of prior application No. 09/886,013 in order to verify that the specification is in fact, a part of the disclosure of the prior application.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to October 28, 2003, using the application papers filed August 27, 2003 and that while the 61 pages of specification and 3 page oath or declaration supplied on February 24, 2004 were not present on filing, they were a part of the original disclosure.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OIPE JC98
OCT 21 2004

TLI/MDS/AAH

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

COPY MAILED

OCT 14 2004

OFFICE OF PETITIONS

In re Application of
Isabelle Rollat et al.
Application No. 10/693,899
Filed: October 28, 2003
Attorney Docket No. 5725.0912-01

: DECISION GRANTING PETITION

This is a decision on the petition filed September 16, 2004, requesting that the above-identified application be accorded a filing date of October 28, 2003, with a complete specification as a part of the original disclosure, which is treated under 37 CFR 1.53.

The petition is **GRANTED**.

The application was filed on October 28, 2003. However, on August 25, 2004, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because a complete specification in compliance with 35 U.S.C. § 112 and an oath or declaration in compliance with 37 CFR 1.63 were missing.

In response, on September 16, 2004, the present petition was filed, accompanied by, inter alia, 80 pages of specification and a 4 page oath or declaration. Petitioners assert that the above-identified application is a divisional of Application No. 09/886,013 filed June 22, 2001.

A search of the official file reveals that on October 28, 2003, a "Utility Patent Application Transmittal" letter indicated that the application was a divisional of application No. 09/886,013, and that the entire disclosure from the prior application is incorporated by reference.

Based on petitioners' representation that the papers supplied with the petition constitute a copy of the "entire submission" of the present application, and the incorporation by reference statement appearing on the transmittal letter deposited on October 28, 2003, stating that the entire disclosure of Application No. 09/886,013 was incorporated by reference in the present application, it appears that the specification was present in the Office on October 28, 2003, albeit in the file of another application, *i.e.,* Application No. 09/886,013. Therefore, on petition, the application may be accorded the requested

DKFCL
10-14-04
JDS

filing date.

The application will be processed and examined with the 80 pages of specification and 4 page oath or declaration supplied on September 16, 2004, as a part of the original disclosure.

Since the petition was required to accord the requested filing date, the petition fee of $130.00 will not be refunded.

The primary examiner is expected to compare the specification and oath or declaration supplied on September 16, 2004, to the disclosure of prior application No. 09/886,013 in order to verify that the specification is in fact, a part of the disclosure of the prior application.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to October 28, 2003, using the application papers filed August 27, 2003 and that while the 61 pages of specification and 3 page oath or declaration supplied on February 24, 2004 were not present on filing, they were a part of the original disclosure.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

IUNITED STATES PATENT AND TRADEMARK OFFICE

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

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

COPY MAILED

JUN 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Yoshinori Nakajima et al	:	
Application No. 10/693,904	:	DECISION GRANTING PETITION
Filed: October 28, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P24496	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 6, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2886 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the currently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

COPY MAILED
SEP 19 2008

In re Application of	:	
NAKAJIMA, et al.	:	
Application No. 10/693,904	:	DECISION GRANTING PETITION
Filed: October 28, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P24496	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 17, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

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

Petitioner is advised that the issue fee paid on August 18, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2886 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

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

BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

COPY MAILED

OCT 19 2004

OFFICE OF PETITIONS

In re Application of	:
Mika Lahtinen et al.	:
Application No. 10/693,905	: DECISION REFUSING STATUS
Filed: October 28, 2003	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 010315-210	:

This decision is in response to the petition filed September 2, 2004, under 37 CFR 1.47(a), in response to the Notice to File Missing Parts "Notice" mailed June 1, 2004.

The petition is **DISMISSED**.

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

The above-identified application was filed on October 28, 2003, naming Mika Lahtinen, Mikko Laukkanen, Sepo Yla-Herttuala and Ollie-Pekka Leppanen but the oath or declaration submitted was unexecuted. Accordingly, on June 1, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on September 2, 2004, the present petition was filed with a request for a one month extension of time and the oath and declaration signed only by inventors Laukkanen, Yla-Herttuala and Leppanen. Petitioners seek status under 37 CFR 1.47(a) based on the fact that efforts to have inventor Lahtinen execute the declaration have been unsuccessful. Petitioners have shown that correspondences were mailed to the non-signing inventor via UPS but that attempt to have him sign the declaration has not resulted in his compliance with the request.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers

(specification, claims and drawings);

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

(3) the petition fee; and

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

The present petition lacks item (1).

Petitioner has provided a copy of the UPS Waybill used to forward correspondence to Mr. Lahtinen. On the Waybill the contents of the package sent to Mr. Lahtinen is identified as "Power of Attorney". Additionally, the letter purportedly addressed to Mika Lahtinen with a date of August 20, 2004, is in a language other than English. Since the Waybill only identifies the contents as including a "Power of Attorney" and since no English translation has been provided, it is impossible for the USPTO to determine the contents of the package or the letter. The reader would need to know that with the letter a complete copy of the application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor. See Manual of Patent Examining Procedure, Section 409.03(d).

The proof submitted is not sufficient proof that a copy of the application papers were presented to the inventor, in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made.

As indicated, the letter addressed to the non-signing inventor is in a language other than English but the Declaration provided is in English. If it is that Mr. Lahtinen understands English, the application should be presented to him in English or else the USPTO won't be able to determine if in fact the papers presented are in fact what petitioner alleges them to be.

As well, petitioner should be reminded of the provisions of 37 CFR 1.69, which provide that:

> (a) Whenever an individual making an oath or declaration cannot understand English, the oath or declaration must be in a language that such individual can understand and shall state that such individual understands the content of any documents to which the oath or declaration relates.
>
> (b) Unless the text of any oath or declaration in a language other than English is a form provided or approved by the Patent and Trademark Office, it must be

> accompanied by an English translation together with a statement that the translation is accurate, except that in the case of an oath or declaration filed under § 1.63, the translation may be filed in the Office no later than two months from the date applicant is notified to file the translation.

Petitioners have not provided sufficient proof that Mr. Lahtinen had the benefit of seeing the application. Before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

COPY MAILED

JUN 1 5 2005

OFFICE OF PETITIONS

In re Application of
Mika Lahtinen et al.
Application No. 10/693,905
Filed: October 28, 2003
Attorney Docket No. 010315-210

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the renewed petition filed under 37 CFR 1.47(a) on February 18, 2005.

The petition is **GRANTED**.

The above-identified application was filed on October 28, 2003, naming Mika Lahtinen, Mikko Laukkanen, Sepo Yla-Herttuala and Ollie-Pekka Leppanen but the oath or declaration submitted was unexecuted. Accordingly, on June 1, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration. In response, on October 19, 2004, a petition under 37 CFR 1.47(a) and one month extension of time request was filed, accompanied by an oath or declaration signed only by inventors Laukkanen, Yla-Herttuala and Leppanen. The petition was dismissed February 18, 2005, the petition was dismissed because the petitioners failed to show that a complete application had been sent to non-signing inventor Mika Lahtinen.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

In response to the decision dismissing the petition filed October 19, 2004, the instant petition shows that a complete application had been sent to non-signing inventor Mika Lahtinen and that he has, by his actions, refused to cooperate with the filing of the instant application.

All requirements under 37 CFR 1.47(a) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center 1636 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MIKE LAHTINEN
TRYFFELVAGEN 14
75646 UPPSALA
SWEDEN

COPY MAILED

JUN 15 2005

OFFICE OF PETITIONS

In re Application of
Mike Lahtinen et al.
Application No. 10/693,905
Filed: October 28, 2003
For: MEDICAL DEVICE

Dear Mr. Lahtinen:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

COPY MAILED
NOV 2 1 2006
OFFICE OF PETITIONS

In re Application of :
Hidekazu Kobayashi :
Application No. 10/693,957 : ON PETITION
Filed: October 28, 2003 :
Attorney Docket No.: 117560 :

This is a decision on the petition, filed November 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 20, 2006, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2879 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

AUG 14 2005

OFFICE OF PETITIONS

OLIFF & BERRIDGE
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of	:	
Hidenori Kawata et al	:	
Application No. 10/693,963	:	ON PETITION
Filed: October 28, 2003	:	
Attorney Docket No. 117269	:	

This is a decision on the petition, filed August 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 April 28, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2871 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

COPY MAILED

MAY 1 9 2004

OFFICE OF PETITIONS

In re Application of
Rollat
Application No. 10/693,966
Filed: October 28, 2003
Attorney Docket No. 5725.0756-01
For: RESHAPABLE HAIR STYLING COMPOSITION COMPRISING ACRYLIC COPOLYMERS

ON PETITION

This is a decision on the petition filed on March 9, 2004 and supplemented on April 30, 2004 to accord the above-identified application a filing date of October 28, 2003. The petition will be treated under 37 CFR 1.53(e) and 37 CFR 1.182.

On October 28, 2003, the application was deposited.

On March 1, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application stating that the specification, drawings, and an oath/declaration were missing and that a filing date would be accorded upon receipt of the missing items.

The present petition alleges that the specification and oath were filed on October 28, 2003. Petitioner requests an October 28, 2003 filing date for the application on the basis that a specification was received in the Patent and Trademark Office (PTO) on October 28, 2003.

In support, the petition is accompanied by a copy of applicant's postcard receipt showing an Office of Initial Patent Examination date stamp showing October 28, 2003 as the date of receipt. The postcard states a Continuing Application Under Section 1.53(b) was filed.

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. MPEP 503.
As stated in MPEP 503, "[M]erely listing on the postcard..."patent application" will not serve as a proper receipt for each of the required components of an application."

The itemized postcard in this case was not properly itemized. The initial reviewer compares/contrasts the application papers before him/her to the postcard receipt. The postcard receipt in this case did not specifically identify the contents of the October 28, 2003 filing. Therefore, the postcard receipt cannot be relied upon to show what specifically was received. The petition under 37 CFR 1.53(e) is **dismissed**.

Fortunately, there an another avenue for relief. Application Transmittal letter, which was received on October 28, 2003, incorporated by reference the entire disclosure of parent

application no. 09/695,392. The petition states that the specification and the oath/declaration in the parent application and instant continuation application identical.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that the specification and oath/declaration were present in the Office on October 28, 2003, albeit in the file of another application, i.e., application no. 09/695,392. Therefore, on petition under 37 CFR 1.182, the application may be accorded the requested filing date of October 28, 2003.

Regarding the lack of drawing figures, it is noted that the application contains composition claims. As stated in MPEP 601.01(f), it is the practice of the United States Patent and Trademark Office (PTO) to treat an application that contains at least one process, method, or composition claim as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence.) Therefore, the application may be accorded a filing date without drawings present.

In view of the above, the petition under 37 CFR 1.182 is **granted**. The copy of the specification submitted with the petition will be used for examination purposes .[1]

The petition fee of $130 will not be refunded since the petition was required to accord the application the requested filing date.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **October 28, 2003**, using the application papers filed on October 28, 2003 and the copy of the specification, claims, abstract, and oath/declaration filed on April 30, 2004.

Telephone inquiries 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

---

[1] The Office assumes that the specification, and claims are a true and exact copy of the specification and claims submitted in the parent application. If this is not the case, then petitioner must notify the Office. Of course, the primary examiner is expected to compare the instant specification and claims to the disclosure of the parent application in order to verify that the specification and claims are, in fact, parts of the disclosure of the prior application.

16 MAR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kia Silverbrook
Silverbrook Research Pty Ltd.
393 Darling Street
Balmain NSW 2041, Australia

In re Application of	:	
Kia Silverbrook	:	
Application No.: 10/693,978	:	
Filed: October 28, 2003	:	DECISION ON PETITION
Attorney Docket No.: ZG006US	:	
For: METHOD OF FABRICATING AN INKJET PRINTHEAD CHIP FOR USE WITH A PULSATING PRESSURE INK SUPPLY	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 19, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

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

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

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

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

The petition does not comply with item (1) above.

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment to the specification filed concurrently therewith. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

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

---

[1] *Note* 37 CFR 1.121

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

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

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298 .

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

11 JUL 2006

Kia Silverbrook
Silverbrook Research Pty Ltd.
393 Darling Street
Balmain NSW 2041, Australia

In re Application of	:	
Kia Silverbrook	:	
Application No.: 10/693,978	:	
Filed: October 28, 2003	:	DECISION ON PETITION
Attorney Docket No.: ZG006US	:	
For: METHOD OF FABRICATING AN INKJET PRINTHEAD CHIP FOR USE WITH A PULSATING PRESSURE INK SUPPLY	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

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 applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Anthony Smith, Attorney Advisor, at (571) 272-3298. 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 1765 for appropriate action on the amendment filed April 3, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

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
10/693,978	10/28/2003	1765	770	ZG006US	9	8	1

CONFIRMATION NO. 6497

CORRECTED FILING RECEIPT

OC000000019491292

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, NSW 2041
AUSTRALIA

Date Mailed: 07/05/2006

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)

Kia Silverbrook, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/302,606 11/23/2002 PAT 6,644,767

Foreign Applications

AUSTRALIA PO8001 07/15/1997
AUSTRALIA PO7991 07/15/1997

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 US10/693,978

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method of fabricating an inkjet printhead chip for use with a pulsating pressure ink supply

Preliminary Class

216

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR

1.53(d). This license is not retroactive.

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

COPY MAILED

NOV 08 2005

OFFICE OF PETITIONS

In re Application of :
Takashi Yamazaki :
Application No. 10/694,007 : DECISION ON PETITION
Filed: October 28, 2003 :
Attorney Docket No. 008312-0306522 :

This is a decision on the petition under 37 CFR §1.137(b), filed October 17, 2005.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on April 8, 2005. The 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 July 9, 2005. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Request for Continued Examination (RCE) and the amendment submitted with the instant petition will be forwarded to Technology Center 2100 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

MAR 25 2005

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

MAILED

MAR 25 2005

OFFICE OF THE DIRECTOR
TC 3600

ATTN: AMSTA-AR-GCL
U.S. Army TACOM-ARDEC
M. Sachs/Building 3
Picatinny Arsenal, NJ 07806-5000

In re Application of
Robert Mazzei et al
Application No. 10/694,009
Filed: October 24, 2003
For: PRACTICE PROJECTILE WITH SMOKE SIGNATURE

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 January 18, 2005.

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

☐ Postcard receipt being dated _____.

☒ USPTO return facsimile receipt dated September 1, 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.

KJD/jwk: 3/9/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 09-04

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

COPY MAILED

SEP 24 2004

OFFICE OF PETITIONS

In re Application of	:
Relyea et al.	: DECISION DISMISSING
Application No. 10/694,080	: PETITION
Filed: 24 October, 2003	:
Attorney Docket No. MSI-1779US	:

This is a decision on the petition under 37 C.F.R. § 1.183, filed on 30 August, 2004, requesting waiver of 37 CFR 1.52(e).

The petition is **dismissed**.

On 24 October, 2003, the application was filed.

On 29 June, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of 24 October, 2003, and stating that the application is objected to because it contains a data file on CD-ROM/CD-R, however, the transmittal letter does not list for each compact disc, the machine format, the operating system compatibility, a list of files contained on the compact disc including their names, sizes in bytes, and dates of creation, plus any other special information that is necessary to identify, maintain, and interpret the information on the compact disc as required by 37 CFR 1.52(e). A statement listing the required information is required. Additionally, the discs are not identified in the paper portion of the specification with a listing of all of the files contained on the disc. When portions of an application are contained on a compact disc, the paper portion of the specification must identify the compact discs and list the files including name, file size and creation date on each of the compact discs. See 37 CFR 1.52(e). Applicants are required to amendment the specification to identify each disc and the files contained on the disc including the file name, file size, and file creation date.

In response, on 30 August, 2004, the present petition was filed. Petitioners request waiver of the requirement of a listing of the files on the compact discs. Petitioners assert that a paper listing of the names, size in bytes, and dates of creation of all

BEST AVAILABLE COPY

of the files contained on the compact discs would required several thousand pages of paper.

Suspension of the rules under 37 CFR 1.183 should be considered herein, suspension may be granted in an "extraordinary situation, when justice requires". The facts presented on the record do not establish an extraordinary situation. Petitioners have not established any special circumstances or equities that would require suspension of the rules in the interests of justice.

When a compact disc has been submitted as part of an application, one is required to list the files on the disc in the application and on the transmittal sheet.

Nevertheless, petitioners may wish to consider supplying a compact disc containing a file comprising the listing required by 37 CFR 1.52(e) in an ASCII format table. Petitioners would also need to supply a new transmittal letter and a preliminary amendment to the specification referencing the one (1) ASCII file containing the listing. As such, the petition is dismissed without prejudice to reconsideration pending submission thereof.

Petitioners are given TWO (2) MONTHS to file a compact disc, preliminary amendment, and supplemental application transmittal letter as stated above. **This time period is not extendable.**[1] Failure to file a timely reply will result in abandonment of the application.

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

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

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

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

[1] 37 CFR 1.181(f).

BEST AVAILABLE COPY

Petitioner should note that petitioner, and not the Office, is responsible for identifying and correcting any difference between the file list on the compact disc and the files actually on the compact disc.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20060320

DATE : March 16, 2006

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/694083 Patent No.: 6,965,426

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: _____

Rutledge
SPE

2851
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

INSKEEP INTELLECTUAL PROPERTY GROUP, INC
1225 W. 190TH STREET
SUITE 205
GARDENA CA 90248

COPY MAILED

FEB 25 2004

OFFICE OF PETITIONS

In re Application of
Xuzhi Qin
Application No. 10/694,111
Filed: October 27, 2003
Attorney Docket No. 10-9436

DECISION DISMISSING PETITION

This is a decision on the petition filed December 11, 2003, requesting that the above-identified application be accorded a filing date of October 24, 2003, instead of the presently accorded filing date of October 27, 2003.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on October 24, 2003, pursuant to the requirements of 37 CFR 1.10. Petitioner submitted, *inter alia*, a copy of the application transmittal, a copy of the application as filed, a declaration from Allie Barrett, an employee of Inskeep Intellectual Property Group, Inc., and a copy petitioner's "Client Costs Log". The transmittal bears "Express Mail" tracking number EL993618067US but petitioner has not submitted a copy of the Express Mail mailing label as required for a petition under 37 CFR 1.10(d).

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date.[1] (emphasis added)

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that 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

[1] See 37 CFR 1.6(a).

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. In addition, the showing "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."

At the outset, it is noted that petitioners have not provided a true copy of the "Express Mail" customer label nor explained why a copy of the Express Mail customer label showing the "date in" has not been provided. Any renewed petition must be accompanied by a copy of the Express Mail label showing the "date in" as completed the USPS.

The declaration of Allie Barrett suggests that Express Mail package EL993618067US was "dropped off" at 4:19pm on October 24, 2003, before the last scheduled pick up. Ms. Barrett's declaration does not indicate however, "where" the purported "drop off" was made, nor what the last scheduled pick up was for that unidentified location.

Additionally, the Client Cost Log showing that $13.75 was charged to petitioner's client for an express mail package does not bear proof that the specific express mail package in question, nor the contents of said package were in fact deposited in an express mail box prior to the last scheduled pick up for that box on October 24, 2003.

The petition filed on December 11, 2003, is not accompanied by the corroborating evidence required by the rule. The circumstances of this case instead lead to the conclusion that petitioner deposited the correspondence in an Express Mail drop box rather than directly with USPS employees. Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.[2]

Accordingly, the petition is <u>dismissed</u>.

The Office of Initial Patent Examination has been notified to accord the above identified

---

[2] 37 CFR 1.10(b).

application with a filing date of October 27, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **7-6-10**

TO SPE OF : ART UNIT **2874**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10694119** Patent No.: **7048448**

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 – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

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: Request for Certificate of Correction is for the purpose of correcting typographical and grammatical errors which does not change the scope of the claimed invention.

/UYEN-CHAU N. LE/ — **SPE**

2874 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRIAN F. JACKMAN
39 PARK ST.
HUDSON MA 01749

COPY MAILED

DEC 15 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Brian F. Jackman :
Application No. 10/694,137 :
Filed: October 27, 2003 :
Title of Invention: **CARTRIDGE NOZZLE SEAL OPENED BY INTERNAL CARTRIDGE PRESSURE** :

This is a decision on the petition, filed April 26, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

A non-Final Office Action was mailed June 6, 2005. A response was due not later than September 6, 2005. A one month extension of time was filed September 1, 2005 but without a proper reply to the office action. Subsequently, an amendment and two month extension of time request were filed on December 5, 2005. At the outset, the extension of time was deficient as a one month extension of time at the rate of $60 and two month extension of time paid for at the rate of $165 of time are not the equivalent to a three month extension which carries with it a rate of $510. A response in the form of an amendment was filed December 5, 2005, albeit after the abandonment of the application, however it was found to be non-compliant under 37 CFR 1.121. Accordingly, a Notice of Abandonment was mailed February 7, 2006.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(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) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

In view of the supplemental amendment file with the petition to revive and all other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to Technology Center 3754 for processing of the amendment filed April 26, 2006.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN TX 77522-2149

MAILED

JUN 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Mehta, et al.	:	
Application No. 10/694,150	:	DECISION DISMISSING PETITION
Filed: October 27, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2003B107	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 13, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed applications listed in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The amendment as drafted is unacceptable. Appropriate benefit claims must be made in each intermediate application in the chain of prior applications. Petitioners are informed that the Office database does not list Application No. 09/734,479 as a continuation-in-part of PCT/US00/33612. A review of Application No. 09/734,479 reveals no reference to PCT/US00/33612, let alone a claim of benefit to it.

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/21/05

TO SPE OF : ART UNIT 3662

SUBJECT : Request for Certificate of Correction on Patent No.: 10/694,154 6,774,837

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

See Also Req. including Formal Drawings not Printed.

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:

Thomas H Jarvis
SPE

3662
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Offic

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEVENFELD PEARLSTEIN
INTELLECTUAL PROPERTY DEPARTMENT
2 NORTH LASALLE
SUITE 1300
CHICAGO IL 60602

COPY MAILED

JUN 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Young et al.	:	
Application No. 10/694180	:	DECISION ON PETITION
Filed: 10/28/2003	:	
Atty Docket No. 34382-60266	:	

This is a decision on the petition filed on 1 May, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 23 December, 2006, for failure to timely and properly respond to the final Office action mailed on 22 September, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. An

[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. 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)).

amendment after final rejection was filed on 22 November, 2006. On 14 December, 2006, an Advisory Action was mailed, stating that the amendment failed to place the application in condition for allowance. Notice of Abandonment was mailed on 1 May, 2007.

Petitioners have file a Request for Continued Examination and have indicated that the previously filed amendment is the submission required by 37 CFR 1.114.

This application is being forwarded to Technology Center Art Unit 1744 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
www.uspto.gov

MORGAN LEWIS & BOCKIUS, LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

COPY MAILED
JUL 3 1 2008

In re Application of	:	
Lloyd Wolfinbarger, Jr., et. al.	:	
Application No. 10/694,190	:	ON PETITION
Filed: October 28, 2003	:	
Attorney Docket No. 067949-5019-01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 4, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed February 2, 2007. A Notice of Abandonment was mailed on August 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, a substitute oath/declaration and a terminal disclaimer under 37 CFR 1.321 with the $65 fee; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Power of Attorney and Correspondence Address Indication Form filed on June 25, 2007 has been accepted and made of record. A Notice of Acceptance accompanies this decision.

This application file is being referred to Technology Center Art Unit 1651 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

Enclosure: Notification 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
10/694,190	10/28/2003	Lloyd Wolfinbarger JR.	067949-5019-01

CONFIRMATION NO. 3910

POA ACCEPTANCE LETTER

9629
MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

OC000000031284723

Date Mailed: 07/30/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/25/2007.

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.

/amsmith/

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

JEFFREY THORN
120 WINTHROP
ALBANY, NY 12203

COPY MAILED

SEP 26 2005

OFFICE OF PETITIONS

In re Application of
Jeffrey P. Thorn
Application No. 10/694,230
Filed: October 28, 2003
For: AMBIENT ENERGY FUELED MECHANICAL AND ELECTRIC POWER PLANT (AEFMEPP)

DECISION ON PETITION TO MAKE SPECIAL
37 CFR 1.102(c)

This is a decision on the petition under 37 CFR 1.102(c), filed November 3, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section V: Environmental Quality and Section VI: Energy.

The petition is **DISMISSED AS MOOT**.

A review of the file indicates that the above-identified application matured into Patent No. 6,938,422 on September 6, 2005. Therefore, no further action being required, this matter is being referred to Files Repository.

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

David Bucci
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

JEFFREY THORN
120 WINTHROP
ALBANY, NY 12203

COPY MAILED

JAN 06 2010

In re Patent No. 6,938,422 :
Issue Date: September 6, 2005 :
Application No. 10/694,230 : ON PETITION
Filed: October 28, 2003 :
Patentee: Jeffrey P. Thorn :

This is a decision in response to a petition under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent, filed October 21, 2009.

The petition is **DISMISSED**.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item 3 above.

Petitioner should note that the fees required for consideration of the present petition total $2,130, for the $490 maintenance fee and the $1,640 surcharge. Petitioner submitted fees of $555, resulting in a fee deficiency of $1,575 in the payment of the surcharge. The petition does not include an authorization to charge any fee deficiencies to a deposit account. Accordingly, this petition cannot be granted at this time.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f), as well as the $1,575 balance of the requisite surcharge, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the $555 fees submitted with the petition. The request should be made in writing and

addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

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

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

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

By Internet: EFS-Web[1]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JEFFREY THORN
120 WINTHROP
ALBANY, NY 12203

MAILED
APR 15 2010
OFFICE OF PETITIONS

In re Patent No. 6,938,422	:	
Issue Date: September 6, 2005	:	
Application No. 10/694,230	:	ON PETITION
Filed: October 28, 2003	:	
Patentee(s): Jeffrey P. Thorn	:	

This is a decision in response to the renewed petition, filed January 22, 2010, under 37 CFR 1.378(e) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The renewed petition is found to comply with the requirements of 35 U.S.C. 41(c) and 37 CFR 1.378(c) (d) and (e). Accordingly, the petition is **GRANTED**.

The 3 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Pablo E. Corredor
1585 East 11th Avenue
Hialeah FL 33010

COPY MAILED

FEB 08 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Corredor and Stefanini :
Application No. 10/694,231 :
Filed: October 28, 2003 :
For: Beverage Bottle and Can Opener :

This is a decision on the petition under 37 CFR 1.137(a), filed December 14, 2004, which is being treated as a petition to withdraw the holding of abandonment due to nonreceipt.[1]

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)."

Petitioner filed a petition for revival of an application for patent abandoned for unavoidable delay under 37 CFR 1.137(a). However, the Office finance records indicate that petitioner submitted a petition fee in the amount of $55.00. The current petition fee is $250.00. Therefore, the petition fee submitted with the present petition is insufficient in the amount of $195.00.

The Office notes:

> 35 U.S.C. 41(a) (7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.
>
> In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and

[1]The joint inventors both signed the petition and the affidavit in support of unavoidable delay.

> not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

MPEP 711.03(c)(III)(B).

Accordingly, the petition will be treated under 37 CFR 1.181 to withdraw the holding of abandonment. A petition under 37 CFR 1.181 does not require payment of a fee for a decision on the merits.

This application became abandoned for failure to reply timely to the Notice to File Missing Parts of Nonprovisional Application mailed on March 18, 2004. The Notice set a two-month extendable period to reply. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on May 19, 2004. A Notice of Abandonment was mailed on December 13, 2004.

Under 37 CFR 1.181:

Petitioner asserted that the delay was caused by nonreceipt of the Notice to File Missing Parts of Nonprovisional Application (Notice) of March 18, 2004. A review of the written record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity there is a strong presumption that the Notice was properly mailed to the petitioner at the address of record as of March 18, 2004. This presumption may be overcome by a verified showing that the Notice was not in fact received.

The showing required to establish nonreceipt of an Office communication must include a statement indicating that the Office communication was not received by petitioner and attesting to the fact that a search of petitioner's records shows that the Office communication was not received. A copy of petitioner's records where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in the statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

In the present petition, petitioner failed to submit a statement attesting to the fact that a search of the records indicated that the Notice to File Missing Parts was not received. Moreover, petitioner failed to provide sufficient documentary evidence such as a copy of his records to support the allegation of nonreceipt of the Notice of March 18, 2004.

Accordingly, the petition under 37 CFR 1.181 is **dismissed**.

Alternate Venue:

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b). The Office further notes:

Petitions under 37 CFR 1.137(b) are less burdensome (statement(s) rather than a showing accompanied by documentary evidence) to file and are evaluated under the less stringent "unintentional delay" standard. Applicants determining whether to file a petition to revive an application under 37 CFR 1.137(b) or 1.137(a) should take the following into account: While the Office reserves the authority to require further information concerning the cause of abandonment and delay in filing a petition to revive, the Office relies upon the applicant's duty of candor and good faith and accepts the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" without requiring further information in the vast majority of petitions under 37 CFR 1.137(b). This is because the applicant is obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when a practitioner provides this statement to the Office. In addition, providing an inappropriate statement in a petition under 37 CFR 1.137(b) to revive an abandoned application may have an adverse effect when attempting to enforce any patent resulting from the application. See 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). Even if the Office requires further information in a petition under 37 CFR 1.137(b), such petition is still significantly less burdensome to prepare and prosecute than a petition under 37 CFR 1.137(a). The Office is almost always satisfied as to whether "the entire delay…was unintentional" on the basis of statement(s) by the applicant or representative explaining the cause of the delay (accompanied at most by copies of correspondence relevant to the period of delay). A showing of unavoidable delay will (in addition to the above) require: (1) evidence concerning the procedures in place that should have avoided the error resulting in the delay; (2) evidence concerning the training and experience of the persons responsible for the error; and (3)copies of any applicable docketing records to show that the error was in fact the cause of the delay. See MPEP § 711.03(c)(III)(C)(2). In addition, a petition under 37 CFR 1.137(a) must establish that the delay was unavoidable, and not just that it was unintentional. Thus, many petitions originally filed under 37 CFR 1.137(a) end up being granted under 37 CFR 1.137(b) when the applicant realizes that sufficient evidence concerning the delay is too difficult to obtain or the cause of delay simply does not amount to "unavoidable delay" within the meaning of 37 CFR 1.137(a). Since the requirements of 37 CFR 1.137(a) are more exacting than the corresponding requirements of 37 CFR 1.137(b), a petition under 37 CFR 1.137(a) is significantly less likely to be grantable as filed than is a petition under 37 CFR 1.137(b). The Office usually must render a number of interlocutory decisions dismissing a petition under 37 CFR 1.137(a) and requesting additional evidence until either the applicant provides a satisfactory showing of unavoidable delay (in which case the petition can be granted) or the Office concludes that the applicant cannot provide a

> satisfactory showing of unavoidable delay (in which case the petition must be denied). Thus, the period between when an applicant first files a petition to revive and the Office renders a decision granting (or denying) that petition will, more often than not, be much longer if the petition is under 37 CFR 1.137(a) than it would have been if the petition were under 37 CFR 1.137(b). 37 CFR 1.137(b) 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).

MPEP 711.03(c)(III)(C).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

(2) **The petition fee as set forth in § 1.17(m) in the amount of $750.00;**

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 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 as set forth in § 1.20(d))required pursuant to 37 CFR 1.137(c).

For petitioner's convenience, a form for filing a petition under 37 CFR 1.137(b) is enclosed, as well as a copy of the Notice to File Missing Parts. Petitioner may wish to apply the $55.00 petition fee paid on December 14, 2004, towards the petition fee for a renewed petition under 37 CFR 1.137(a) or a petition under 37 CFR 1.137(b).

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

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: PTO/SB/64 - Petition For Revival Of An Application For Patent Abandoned Unintentionally; Notice to File Missing Parts in a Nonprovisional Application dated March 18, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Pablo E. Corredor
1585 East 11th Avenue
Hialeah, FL 33010

COPY MAILED

MAY 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Corredor and Stefanini : DECISION ON PETITION
Application No. 10/694,231 :
Filed: October 28, 2003 :
For: Beverage Bottle and Can Opener :

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the Notice to File Missing Parts of Nonprovisional Application mailed on March 18, 2004. The Notice set a two-month extendable period to reply. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on May 19, 2004. A Notice of Abandonment was mailed on December 13, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply and made the proper statement of unintentional delay. Accordingly, the petition is **granted**.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RAYMOND Y. CHAN
108 N. YNEZ AVE., SUITE 128
MONTEREY PARK, CA 91754

COPY MAILED

APR 2 4 2006

OFFICE OF PETITIONS

In re Application of	:	
James Victor Cragg	:	
Application No. 10/694,233	:	DECISION ON PETITION
Filed: October 27, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. UP2118A-SOT2	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR § 1.102(d), filed March 14, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR § 1.102(d) and MPEP § 708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) 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.
>
> 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 complies wit hall the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to Technology Center AU 3727 for action on the merits commensurate with decision.

Amelia Au
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100507

DATE : May 06, 2010

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction on Patent No.: 7459145

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:

/MICHAEL G HARTLEY/
Supervisory Patent Examiner.Art Unit 1618

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

FEB 22 2006

OFFICE OF PETITIONS

MICHAEL BEST & FRIEDRICH
100 E WISCONSIN AVENUE
MILWAUKEE WI 53202

In re Application of :
Stephen W. Dvorak :
Application No. 10/694,244 :
Filed: October 27, 2003 :
Attorney Docket No. 31154-9002-04 :

ON PETITION

This is a decision on the petition, filed February 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : February 22, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

COPY MAILED

FEB 22 2006

OFFICE OF PETITIONS

Applicant(s) :Stephen W. Dvorak
Application No. :10/694,244
Filed :October 27, 2003

The above-identified application has been assigned Patent No. 7,005,070 and an issue date of February 28, 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 February 28, 2006:

> "All reference to Patent No. 7,005,070 to Stephen W. Dvorak of Wisconsin for METHOD AND APPARATUS FOR SOLIDS PROCESSING appearing in the Official Gazette of February 28, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

7/14/08

Patent No. : 7237084
Inventor(s) : Larson et al.
Issued : 6/26/2007
Title : METHOD AND PRORAM PRODUCT FOR AVOIDING CACHE CONGESTION BY OFFSETTING ADDRESSES WHILE ALLOCATING MEMORY

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 that item [56] is printed in accordance with the record. 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

HEWLETT –PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISRTATION
P.O. BOX 272400
FORT COLLINS, COLORADO 80257-2400

HR/CBN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JENNIFER D. ADAMSON
SHELL OIL COMPANY
INTELLECTUAL PROPERTY SERVICES
P.O. BOX 2463
HOUSTON, TX 77252-2463

COPY MAILED

FEB 01 2005

OFFICE OF PETITIONS

In re Application of	:
Leonid Isaakovich Rubinstein	: DECISION ON PETITION
Application No. 10/694,312	: UNDER 37 CFR 1.78(a)(3)
Filed: October 27, 2003	:
Attorney Docket No. TH-1905(US)	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 13, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending

nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The instant petition appears to indicate that applicant wishes to claim priority to prior U.S. application number 09/850,943. However, the amendment, submitted December 13, 2004, only indicates a priority claim to prior U.S. Provisional Application No. 60/421,753.

Accordingly, 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 that correctly identifies the prior U.S. application in which applicant wishes to claim priority should be filed.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

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

Any questions concerning this matter may be directed to petitions attorney Edward Tannouse at (571)272-3228.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

FEB 0 2 2005

OFFICE OF PETITIONS

MCNEES, WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG PA 17108-1166

In re Application of	:	
John Terry Knight et al	:	
Application No. 10/694,316	:	ON PETITION
Filed: October 27, 2003	:	
Attorney Docket No. 20714-0026	:	

This is a decision on the petition, filed January 28, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Files Repository.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JENNIFER D. ADAMSON
SHELL OIL COMPANY
INTELLECTUAL PROPERTY SERVICES
P.O. BOX 2463
HOUSTON, TX 77252-2463

COPY MAILED

JAN 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Rubinstein et al.	:	
Application No. 10/694,338	:	ON PETITION
Filed: October 27, 2003	:	
Attorney Docket No. TH1786(US)	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(6), filed December 13, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 119(e) for the benefit of prior-filed provisional Application No. 60/421,752, filed October 28, 2002, as set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §§ 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR §§ 1.78(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the above-noted, prior-filed application.

The instant pending nonprovisional application was filed on October 27, 2003, and was pending at the time of filing of the instant petition. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR §§ 1.78(a)(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 and declaration 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, the $1500.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

The instant petition also referenced Application No. 09/850,943, but failed to address its relevance in the amendment. Petitioner should clarify whether or not benefit to Application No. 09/850,943 is also requested. At this time, the instant application only claims benefit to the provisional application, as listed in the amendment concurrently submitted with the instant petition.

Any questions concerning this decision on petition may be directed to Paralegal Liana Chase at (571) 272-3206. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the Examiner of Technology Center AU 1625 for appropriate action on the amendment filed December 13, 2004, including consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the above-noted, prior-filed provisional application.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

COPY MAILED
MAY 0 6 2005
OFFICE OF PETITIONS

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

In re Application of	:	
Leanne M. Schrecengost et al.	:	
Application No. 10/694,363	:	
Filed: February 28, 2005	:	DECISION ON PETITION
Attorney Docket No. P-5218D1	:	
Title: ATP EXTRACTION METHOD	:	

This is a decision on the petition filed February 28, 2005

On October 27, 2003, the above-identified application was deposited. On August 26, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Non-provisional Application - Filing Date Granted (notice)", advising applicant that the oath or declaration was unsigned, the associated surcharge would be required, and Figure 7 appeared to have been omitted. The Notice set a two-month period for response.

On February 28, 2005, Petitioner submitted a petition, along with Figure 7, payment of the petition fee, an executed declaration, and the surcharge associated with the late submission of the same. Petitioner has further included a four-month extension of time to make timely this response[1]. Based on the text of the petition, it is clear that Petitioner accepts the date of deposit of the formerly omitted drawings as the filing date.

The petition is **GRANTED**.

1 The petition contains a certificate of mailing dated February 28, 2005.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a **filing date of February 28, 2005**, the date of receipt of the formerly omitted item, Figure 7, using the original application papers filed October 27, 2003, as well as the figure submitted with the petition on February 28, 2005. **OIPE will then mail a corrected filing receipt**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TRASKBRITT, P.C./ ALLIANT TECH SYSTEMS
P.O. BOX 2550
SALT LAKE CITY, UT 84110

MAILED

AUG 11 2009

OFFICE OF PETITIONS

In re Application of :
Edward J. KROLICZEK, et al: :
Application No. 10/694,387 :
Filed: October 28, 2003 :
Attorney Docket No. **2507-8634.1US (22235-US-0)** :

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 10, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 14, 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 3744 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

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

COPY MAILED

SEP 29 2005

OFFICE OF PETITIONS

In re Application of:	:	
Simon Prisant	:	
Application No. 10/694,389	:	DECISION REFUSING
Filed: October 28, 2003	:	STATUS UNDER
Title of Invention: METHOD AND	:	37 CFR 1.47(b)
SYSTEM FOR REMOTE PURCHASE PAYMENTS	:	

This is in response to a petition under 37 CFR 1.47(b), filed January 18, 2005, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors. The delay in treating this petition is regretted.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(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 28, 2003, and included a declaration executed by Eli Dahan, and a Declaration of Jean Levy (hereinafter the "Levy Declaration"). The Levy Declaration provides that the nonsigning inventor expressly refused to join in the application. The Levy Declaration also provides that, under Isreali Law, the nonsigning inventor is obligated to assign all rights in the above-identified application to the Rule 47(b) Applicant. Mr. Levy "ha[s] been employed by Sanford T. Colb & Co., an

Intellectual Property Law Firm in Isreal, since April 24, 1995, and [is] currently in the position of Head of the Foreign Filing Department." *Levy Declaration* at p.1.

With the filing of the executed Declaration, this Office entered the declaration and made the declaration of record, and while a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed to Applicant, there was no mention of the need to file an oath or declaration in compliance with 37 CFR 1.63.

With the instant petition, Applicant provides that the declaration executed by Mr. Dahan and filed with the application on October 28, 2003, was improper[1]. Applicant files a declaration with the petition executed by Mr. Yair Tamir. A Declaration by Mr. Tamir is also filed with the instant petition which identifies Mr. Tamir as the Managing Director of Teltry Systems Limited ("Teltry"), successor in interest to the above-identified application.

Applicable Law

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor(s); (5) proof of proprietary interest; and (6) proof of irreparable harm. Applicant lacks items (2) and (5).

As to item (2), the Office notes that pursuant to Section 409.03(b)(A) of the Manuel for Patent Examining Procedure:

> Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary,

[1] Applicants filed a petition under 37 CFR 1.47(b) in application 10/009,740 (which is the national stage entry of PCT/IL00/00331), and of which the above-identified application is a continuation. The petition included the declaration executed by Mr. Dahan. That petition was dismissed in a Decision mailed March 31, 2003. The Decision dismissing the petition noted that Mr. Dahan lacked the capacity to execute the declaration on behalf of the nonsigning inventor.

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

Applicant has not presented an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64. The MPEP provides that "[a] person having a title (manager, director, administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee." See, MPEP 324. Also, the title or position of the person signing must be stated on the declaration. A properly executed oath or declaration is required.

As to item (5), applicant failed to show or provide proof that Teltry has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Acceptable proof would include a copy of the employment agreement between the non-signing inventor and the Rule 47(b)

applicant (company), a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

Here, Applicant has provided the Levy Declaration, which states that under Isreali Law, the nonsigning inventor is obligated to assign all rights in the above-identified application to the Rule 47(b) Applicant. This statement falls short of a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant. Moreover, the Levy Declaration provides that Mr. Levy is employed by the firm as Head of the Foreign Filing Department. The Declaration fails to state whether Mr. Levy is an attorney familiar with the law of the jurisdiction. Further to this, a review of the documents filed with the instant petition fail to reveal an employment agreement between the non-signing inventor and the Rule 47(b) applicant (company), or a copy of an assignment agreement showing that the invention disclosed in the application was assigned to the Rule 47(b) applicant by the nonsigning inventor.

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

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

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

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

COPY MAILED

DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of:	:	
Simon Prisant	:	
Application No. 10/694,389	:	DECISION DISMISSING
Filed: October 28, 2003	:	PETITION
Title of Invention: METHOD AND	:	
SYSTEM FOR REMOTE PURCHASE PAYMENTS	:	

This is in response to the Request for Reconsideration Petition Under 37 CFR 1.47(b), filed November 23, 2005, noting the joinder of the inventor.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the Reconsideration of Petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Declaration has been entered and made of record.

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APR 19 2005

WOODCODK WASHBURN LLP
One Liberty Place, 46th Floor
1650 Market Street
Philadelphia, PA 19103

In re Application of	:	NOTICE OF
Sean E. Rick et al	:	WITHDRAWAL
Serial No: 10/694,410	:	FROM ISSUE
Filed: October 28, 2003	:	UNDER 37 CFR 1.313
For: HAND LEVER WITH INTEGRATED CONTROLLER	:	

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

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

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have not been paid. If the issue fee and publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fee(s) due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Fee(s) Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Robert Oberleitner, Director
Patent Technology Center 3600
(571) 272-5350

UNITED STATES 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.

GUNN, LEE & HANOR
700 N. ST. MARY'S STREET
SUITE 1500
SAN ANTONIO TX 78205

COPY MAILED

DEC 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Todd Hargroder	:	DECISION ON
Application No. 10/694,508	:	PETITION
Filed: October 27, 2003	:	
Atty Docket No. P-7519(CIP)	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed October 14, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned by operation of law for failure to timely file a proper reply to the final Office action mailed April 6, 2006. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. An amendment, made timely by an accompanying petition and extension of time for response within the third month, was filed on October 2, 2006. It has been confirmed that this reply filed October 2, 2006 failed to place the application in condition for allowance. (Enclosed please find an Advisory Action). Thus, the maximum period for reply expired on October 6, 2006 with no proper reply received. Accordingly, the application became abandoned on October 7, 2006.

However, prior to the Office issuing an Action in response to the reply filed October 2, 2006 and a courtesy Notice of Abandonment, on October 14, 2006, applicants filed the instant petition and a Request for Continued Examination (RCE) with the

amendment filed October 2, 2006 as the submission. Despite the abandonment and without benefit of a decision on the petition, prosecution of this application continued. A Notice of Allowance and Fee(s) Due was mailed on October 18, 2006. This petition is being granted to close the gap in prosecution.

The petition includes the required reply in the form of an RCE and submission (and fee). Petitioner has paid the petition fee and made the required statement of unintentional delay. Petitioner has thereby met the requirements for a grantable petition under 37 CFR 1.137(b).

The Office of Patent Publication has been advised of this decision. The application file is, thereby, being forwarded to the Publishing Division for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/694,508	HARGRODER, TODD L.	
	Examiner	Art Unit	
	Daniel Yeagley	3611	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-10 and 21-30*.
   Claim(s) withdrawn from consideration: *11-20*.

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 additional claim limitation is considered a new issue that would require further consideration and/ or search .

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAVA GROUP LAW BY SMITH & FROHWEIN, LLC
P.O. BOX 88148
ATLANTA, GA 30356

COPY MAILED

FEB 23 2005

OFFICE OF PETITIONS

In re Application of	:	
David S. Beckemeyer	:	DECISION DISMISSING
Application No. 10/694,518	:	PETITION
Filed: October 13, 2004	:	
Attorney Docket No. 20006.1010	:	

This is a decision on the papers submitted December 23, 2004, which have been treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of October 11, 2004, rather than the presently accorded filing date of October 13, 2004.

The petition is **dismissed**.

Petitioners allege that the application was deposited in USPS Express Mail service on October 11, 2004. In support, the petition is accompanied by a copy of a USPS receipt dated October 11, 2004 that indicates a tracking number of EW152900095US.

Paragraph (c) of 37 CFR 1.10 states that:

> "Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label **showing the "date-in,"** and of any other **official notation by the USPS** relied upon to show the date of deposit."

(Emphasis supplied)

A grantable petition under 37 CFR 1.10(c) must include "a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit."

The petition filed December 23, 2004, is not accompanied by the required true copy of the "Express Mail" mailing label. However, petitioner states:

> "The Express Mail package was deposited in a Kiosk at the Post Office located at 1551 Dunwoody Village Parkway, Atlanta Georgia 30338-9998 on October 11, 2004. A copy of the receipt that was obtained from the Kiosk is attached to this response. The tracking number listed on the receipt is apparently assigned by the Kiosk and thus, is not reflected in the filing package."

Petitioner states in the Utility Patent Application Tranmittal that the original application filing was mailed under Express Mail Label No. ED090319807US. As this number differs from the tracking number provided in the USPS receipt submitted with the instant petition, it is not possible to associate the tracking number of EW152900095US with the Express Mail label number ED090319807US. Therefore, the USPS receipt submitted with the instant petition does <u>not</u> verify that the package with Express Mail label number ED090319807US was, in fact, submitted on October 11, 2004.

Furthermore, review of the "USPS Track & Confirm Shipment Details" for Express Mail Receipt No. ED090319807US, obtained by

this office, indicates the item was first processed by the USPS on October 13, 2004.[1]

Accordingly, the petition filed December 23, 2004, does not contain a true copy of the "Express Mail" mailing label showing the "date-in" as required by the rule nor does it contain any other notation made by the USPS for Express Mail label number ED0900319807US and is, therefore, dismissed.

Please note, 37 CFR 1.10(b) provides that correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked, and that persons dealing indirectly with the employees of the USPS (such as by depositing correspondence in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. On petition, the failure to obtain an "Express Mail" receipt with the "date-in" clearly marked may be considered an omission that could have been avoided by the exercise of due care. While the Office strongly urges direct deposit of "Express Mail" correspondence in order to obtain a legible copy of the "Express Mail" mailing label, parties are not precluded from using "Express Mail" drop boxes, but do so at their own risk. *See* MPEP 513.

The application is being returned the Office of Initial Patent Examination for further processing with the presently accorded filing date of October 13, 2004.

Telephone inquiries should be directed to the undersigned at (571)272-3228.

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

---

[1] Additionally, it is noted that review of the "USPS Track & Confirm Shipment Details" for Tracking No. EW152900095US, obtained by this office, indicates the item with that tracking number was first accepted by the USPS on October 13, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VERTEX PHARMACEUTICALS INC.
130 WAVERLY STREET
CAMBRIDGE MA 02139-4242

COPY MAILED

AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Aronov et al.	:	
Application No. 10/694,534	:	ON PETITION
Filed: October 27, 2003	:	
Attorney Docket No. VPI/02-114 US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 26, 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 21, 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 22, 2005. A Notice of Abandonment was mailed July 28, 2005.

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

This matter is being referred to Technology Center 1600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
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

MAIL

MAY 2 7 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ROBERT J JACOBSON PA
650 BRIMHALL STREET SOUTH
ST PAUL MN 55116-1511

In re Application of
Christ G. Ellis
Application No. 10/694,538
Filed: October 28, 2003
For: **INTELLIGENT VEHICLE APPARATUS AND METHOD FOR USING THE APPARATUS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special pursuant to 37 C.F.R. §1.102 and MPEP §708.02 (IV) (applicant's age) filed October 26, 2003.

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

The petition includes a copy of the inventor's birth certificate which reflects a birth date of August 10, 1927, evidencing that the inventor is over 65 years of age.

Accordingly, the petition is **GRANTED**.

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

The application file is being forwarded to the examination art unit for expedited prosecution.

Kenneth A. Wieder

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

COPY MAILED

JAN 17 2008

OFFICE OF PETITIONS

In re Patent No. 7,211,316	:	
Issued: May 1, 2007	:	
Application No. 10/694,547	:	ON PETITION
Filed: October 27, 2003	:	
Attorney Docket No. 063530	:	

This is a decision on the petition under 37 CFR 1.182, filed December 6, 2007, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower 8C41 (FAX 571-273-9756)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARSHALL, GERSTEIN & BORUN LLP
LYNN L. JANULIS, PH.D.
SEARS TOWER
233 SOUTH WACKER DRIVE, SUITE 6300
CHICAGO IL 60606-6357

COPY MAILED

AUG 10 2007

OFFICE OF PETITIONS

In re Patent No. 7,220,407 :
Issued: May 22, 2007 :
Application No. 10/694,579 : ON PETITION
Filed: October 27, 2003 :
Attorney Docket Number: 01017/39555 :

This is a decision on the petition, filed June 8, 2007 to correct the name of the assignee on the front of the Patent, which is being treated under 37 CFR 3.81(b)[1].

The petition is **GRANTED**.

Petitioner states that the assignee is NORTHWESTERN UNIVERSITY and seeks to correct the face of the patent due to a typographical error made on the Fee(s) Transmittal form PTOL-85(b).

Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request is accompanied by a certificate of correction. Office assignment records reflect that NORTHWESTERN UNIVERSITY is the assignee of record. The petition fee in the amount of $130.00 has been charged to deposit account no. 13-2855, and the fee for the certificate of correction has been applied.

---

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

Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

COPY MAILED

MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Rohr, et al :
Application No.: 10/694,602 : DECISION GRANTING PETITION
Filed: October 27, 2003 :
Attorney Docket No.: 2001P11002WOUS :
FOR: APPARATUS AND METHOS FOR LOADING AND/OR UNLOADING A TRANSPORT COMPARTMENT

This is a decision on the petition, filed November 25, 2005 (certificate of mailing date November 22, 2005), under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the September 24, 2004 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on December 25, 2004. A Notice of Abandonment was mailed on June 6, 2005.

Applicants have submitted an amendment in reply to the September 24, 2004 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 24, 2004 non-final Office action, and the petition fee.

The petition is **GRANTED**.

Please find enclosed notices pertaining to the revocation/power of attorney filed with the instant petition.

After the mailing of this decision the application will be forwarded to Technology Center AU 3652 for consideration of the amendment filed on November 25, 2005 (certificate of mailing date November 22, 2005).

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

enclosures: Notices regarding revocation/power of attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW Oct-07

BEUSSE WOLTER SANKS MORA & MAIRE, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO FL 32801

COPY MAILED

OCT 04 2007

OFFICE OF PETITIONS

In re Application of	:	
Karthikeyan et al.	:	
Application Number: 10/694611	:	DECISION ON PETITION
Filing Date: 10/27/2003	:	
Attorney Docket Number: 075903-030	:	

This is a decision on the petition filed on 20 August, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

---

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

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

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

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

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

The petition is **GRANTED**.

The application became abandoned on 25 July, 2007, for failure to timely pay the issue fee as required by the Notice of Allowance Fee(s) Due mailed on 24 April, 2007. Notice of Abandonment was mailed on 17 August, 2007.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This application is being referred to the Office of Patent Publications for processing into a patent.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

DENNIS M. CARLETON
625 LIBERTY AVENUE
PITTSBURGH PA 15222

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW Oct-07

OIPE IAP22
OCT 11 2007
PATENT & TRADEMARK OFFICE

BEUSSE WOLTER SANKS MORA & MAIRE, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO FL 32801

COPY MAILED
OCT 04 2007
OFFICE OF PETITIONS

In re Application of	:	
Karthikeyan et al.	:	
Application Number: 10/694611	:	DECISION ON PETITION
Filing Date: 10/27/2003	:	
Attorney Docket Number: 075903-030	:	

This is a decision on the petition filed on 20 August, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

---

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

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

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

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

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

The petition is **GRANTED**.

The application became abandoned on 25 July, 2007, for failure to timely pay the issue fee as required by the Notice of Allowance Fee(s) Due mailed on 24 April, 2007. Notice of Abandonment was mailed on 17 August, 2007.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This application is being referred to the Office of Patent Publications for processing into a patent.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

DENNIS M. CARLETON
625 LIBERTY AVENUE
PITTSBURGH PA 15222

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI,
L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED

MAR 2 6 2010

OFFICE OF PETITIONS

In re Application of	:	
Roundy et al.	:	ON REQUEST FOR
Patent Number: 7,561,536	:	RECONSIDERATION OF
Issue Date: 07/14/2009	:	PATENT TERM ADJUSTMENT
Application No. 10/694622	:	
Filing or 371(c) Date: 10/27/2003	:	
Attorney Docket Number: 199-0065US	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed July 21, 2009. Patentee requests that the determination of patent term adjustment under 35 U.S.C. 154(b) at the time of mailing of the notice of allowance be corrected from nine hundred sixty (960) days to nine hundred sixty-two (962) days.

The application for patent term adjustment is **DISMISSED**.

On July 14, 2009, the above-identified application matured into U.S. Patent No. 7,561,536, with a patent term adjustment of 960 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request that the patent term adjustment ("PTA") be adjusted to 962 days. Patentees believe that they should not have been assessed two (2) days of delay relative to the payment of the issue fee. Patentees acknowledge that the date three months after the mailing of the Notice of Allowance is June 6, 2009, and that the Issue Fee in response to the Notice of Allowance was filed on June 8, 2009. However, Patentees aver that the issue fee was timely because the time period for reply ended on a Saturday, Sunday or Federal Holiday, in which instance, Patentees provide, the reply is timely if filed on the next succeeding business day. Patentees also cite to 35 U.S.C. § 21(b), which provides in relevant part, that when the last day for paying any fee falls on a Saturday, Sunday or Federal Holiday within the District of Columbia, the fee may be paid on the next succeeding or secular or business day. Patentees also refer to the Notice of Allowance which states that Fees are Due on June 8, 2009.

Regarding the delay of two (2) days attributed to Applicant under 37 CFR 1.704(b), for filing the issue fee on June 8, 2009, Patentee' attention is directed to 37 CFR 1.703(f), which provides that

"[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. That is, while the date indicated on any certificate of mailing or transmission under § 1.8 will continue to be taken into account in determining timeliness, the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation. Applicant may wish to consider the use of the ''Express Mail Post Office to Addressee'' service of the United States Postal Service (§ 1.10) or facsimile transmission (§ 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment calculations. (Emphasis supplied). *See also*, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*; *Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

In accordance with 37 CFR 1.703(f), the Office properly used June 8, 2009, the filing date of the issue fee, in calculating the patent term adjustment. Accordingly, Patentees' argument on request for reconsideration of patent term adjustment is not found persuasive.

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

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

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

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Philip L. Cole	: DECISION ON REQUEST FOR
Patent Number	: 7599463	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/694,624	: 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 **229** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUL 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
William McLain Reller et al	:	
Application No. 10/694,643	:	DECISION ON PETITION
Filed: October 27, 2003	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 026296-000310US	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 6, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed Application Data Sheet (ADS).

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) 272-3208. 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 3622 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.

Karen Creasy

Karen Creasy
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/694,643	10/27/2003	3622	435	026296-000310US	4	1

CONFIRMATION NO. 4009

CORRECTED FILING RECEIPT

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000030765883

Date Mailed: 07/02/2008

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)

William McLain Reller, Seattle, WA;
Sean Patrick Nolan, Bellevue, WA;

Power of Attorney: The patent practitioners associated with Customer Number 20350

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/421,507 10/25/2002

Foreign Applications

If Required, Foreign Filing License Granted: 03/10/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/694,643**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Selecting ads for a web page based on keywords located on the web page

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

MAILED

OCT 27 2009

OFFICE OF PETITIONS

In re Application of :
Timothy M. Morris, et al. :
Application No. 10/694,645 : ON PETITION
Filed: October 27, 2003 :
Docket No. PA-004.02739-US (03-634) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 29, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely respond to a decision by the Board of Patent Appeals and Interferences mailed January 29, 2009. It is noted that a Request for Continued Examination (RCE) was filed on March 30, 2009. However, on June 3, 2009, the RCE was held improper, since it failed to include a submission under 37 CFR 1.114. On June 29, 2009, the present petition was filed.

The petition is found to satisfy 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 $1,620; and (3) a proper statement of unintentional delay.

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

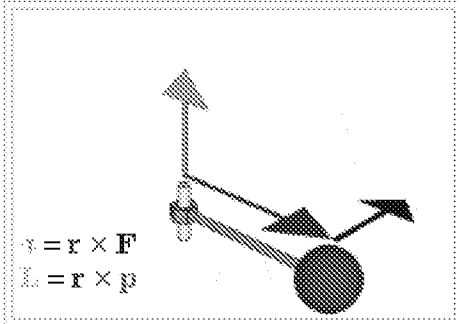
This application is being referred to Technology Center AU 3644 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Torque

From Wikipedia, the free encyclopedia

Torque, also called **moment** or **moment of force** (see the terminology below), is the tendency of a force to rotate an object about an axis,[1] fulcrum, or pivot. Just as a force is a push or a pull, a torque can be thought of as a twist.



Relationship between force **F**, torque **τ**, linear momentum **p**, and angular momentum **L** in a system which has rotation constrained in one plane only. (Forces and moments due to gravity and friction not considered.)

In more basic terms, torque measures how hard something is rotated. For example, imagine a wrench or spanner trying to twist a nut or bolt. The amount of "twist" (torque) depends on how long the wrench is, how hard you push on it, and how well you are pushing it in the correct direction.

The terminology for this concept is not straightforward: In physics, it is usually called "torque", and in mechanical engineering, it is called "moment".[2] However, in mechanical engineering, the term "torque" means something *different*,[3] described below. In this article, the word "torque" is always used in the physics sense, synonymous with "moment" in engineering.

The symbol for torque is typically τ, the Greek letter *tau*. When it is called moment, it is commonly denoted M.

The magnitude of torque depends on three quantities: First, the force applied; second, the length of the *lever arm*[4] connecting the axis to the point of force application; and third, the angle between the two. In symbols:

$$\boldsymbol{\tau} = \mathbf{r} \times \mathbf{F}$$
$$\tau = rF\sin\theta$$

where

- $\boldsymbol{\tau}$ is the torque vector and τ is the magnitude of the torque,
- $\mathbf{r}$ is the displacement vector (a vector from the point from which torque is measured to the point where force is applied), and r is the length (or magnitude) of the lever arm vector,
- $\mathbf{F}$ is the force vector, and F is the magnitude of the force,
- $\times$ denotes the cross product,
- θ is the angle between the force vector and the lever arm vector.

The length of the lever arm is particularly important; choosing this length appropriately lies behind the operation of levers, pulleys, gears, and most other simple machines involving a mechanical advantage.

The SI unit for torque is the newton meter (N·m). In Imperial and U.S. customary units, it is measured in foot pounds (ft·lbf) (also known as 'pound feet') and for smaller measurement of torque: inch pounds (in·lbf) or even inch ounces (in·ozf). For more on the units of torque, see below.

Contents

- 1 Terminology
- 2 History
- 3 Definition and relation to angular momentum
  - 3.1 Proof of the equivalence of definitions
- 4 Units
- 5 Special cases and other facts
  - 5.1 Moment arm formula
  - 5.2 Static equilibrium
  - 5.3 Net Force vs. Torque
- 6 Machine torque
- 7 Relationship between torque, power and energy
  - 7.1 Conversion to other units
  - 7.2 Derivation
- 8 Principle of Moments
- 9 See also
- 10 References
- 11 External links

Terminology

See also: Couple (mechanics)

In mechanical engineering (unlike physics), the terms "torque" and "moment" are not interchangeable. "Moment" is the general term for the tendency of one or more applied forces to rotate an object about an axis (the concept which in physics is called torque).[3] "Torque" is a special case of this: If the applied force vectors add to zero (i.e., their "resultant" is zero), then the forces are called a "couple" and their moment is called a "torque".[3]

For example, a rotational force down a shaft, such as a turning screw-driver, forms a couple, so the resulting moment is called a "torque". By contrast, a lateral force on a beam produces a moment (called a bending moment), but since the net force is nonzero, this bending moment is not called a "torque".

This article follows physics terminology by calling all moments by the term "torque", whether or not they are associated with a couple.

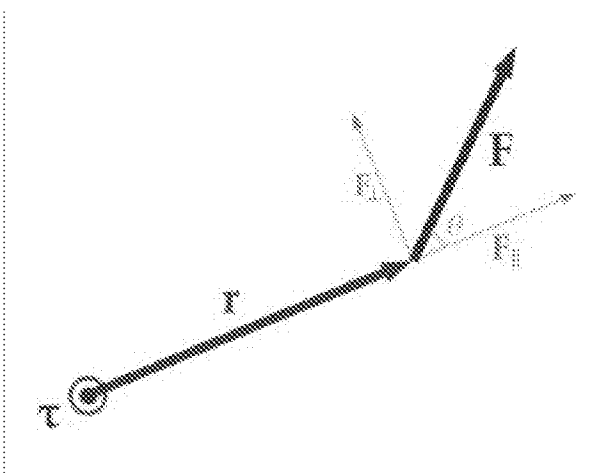
History

The concept of torque, also called moment or couple, originated with the studies of Archimedes on levers. The rotational analogues of force, mass, and acceleration are torque, moment of inertia, and angular acceleration, respectively.

Definition and relation to angular momentum

A force applied at a right angle to a lever multiplied by its distance from the lever's fulcrum (the length of the lever arm) is its torque. A force of three

newtons applied two meters from the fulcrum, for example, exerts the same torque as a force of one newton applied six meters from the fulcrum. The direction of the torque can be determined by using the right hand grip rule: if the fingers of the right hand curl in the direction of rotation and the thumb points along the axis of rotation, then the thumb also points in the direction of the torque.[5]



A particle is located at position **r** relative to its axis of rotation. When a force **F** is applied to the particle, only the perpendicular component $\mathbf{F}_\perp$ produces a torque. This torque $\boldsymbol{\tau} = \mathbf{r} \times \mathbf{F}$ has magnitude $\tau = |\mathbf{r}| \ |\mathbf{F}_\perp| = |\mathbf{r}| \ |\mathbf{F}| \ \sin\theta$ and is directed outward from the page.

More generally, the torque on a particle (which has the position **r** in some reference frame) can be defined as the cross product:

$$\boldsymbol{\tau} = \mathbf{r} \times \mathbf{F},$$

where **r** is the particle's position vector relative to the fulcrum, and **F** is the force acting on the particle. The magnitude τ of the torque is given by

$$\tau = rF\sin\theta,$$

where r is the distance from the axis of rotation to the particle, F is the magnitude of the force applied, and θ is the angle between the position and force vectors. Alternatively,

$$\tau = rF_\perp,$$

where $F_\perp$ is the amount of force directed perpendicularly to the position of the particle. Any force directed parallel to the particle's position vector does not produce a torque.[6]

It follows from the properties of the cross product that the torque vector is perpendicular to both the position and force vectors. It points along the axis of rotation, and its direction is determined by the right-hand rule.[6]

The torque on a body determines the rate of change of the body's angular momentum,

$$\boldsymbol{\tau} = \frac{\mathrm{d}\mathbf{L}}{\mathrm{d}t}$$

where **L** is the angular momentum vector and t is time. If multiple torques are acting on the body, it is instead the net torque which determines the rate of change of the angular momentum:

$$\boldsymbol{\tau}_1 + \cdots + \boldsymbol{\tau}_n = \boldsymbol{\tau}_{\text{net}} = \frac{\mathrm{d}\mathbf{L}}{\mathrm{d}t}.$$

For rotation about a fixed axis,

$$\mathbf{L} = I\boldsymbol{\omega},$$

where I is the moment of inertia and $\boldsymbol{\omega}$ is the angular velocity. It follows that

$$\boldsymbol{\tau}_{\text{net}} = \frac{\mathrm{d}\mathbf{L}}{\mathrm{d}t} = \frac{\mathrm{d}(I\boldsymbol{\omega})}{\mathrm{d}t} = I\frac{\mathrm{d}(\boldsymbol{\omega})}{\mathrm{d}t} = I\boldsymbol{\alpha},$$

where $\boldsymbol{\alpha}$ is the angular acceleration of the body, measured in rad s^{-2}.

Proof of the equivalence of definitions

The definition of angular momentum for a single particle is:

$$\mathbf{L} = \mathbf{r} \times \mathbf{p}$$

where "×" indicates the vector cross product and **p** is the particle's linear momentum. The time-derivative of this is:

$$\frac{d\mathbf{L}}{dt} = \mathbf{r} \times \frac{d\mathbf{p}}{dt} + \frac{d\mathbf{r}}{dt} \times \mathbf{p}.$$

This result can easily be proven by splitting the vectors into components and applying the product rule. Now using the definitions of velocity $\mathbf{v} = d\mathbf{r}/dt$, acceleration $\mathbf{a} = d\mathbf{v}/dt$ and linear momentum $\mathbf{p} = m\mathbf{v}$,

$$\frac{d\mathbf{L}}{dt} = \mathbf{r} \times m\frac{d\mathbf{v}}{dt} + \mathbf{v} \times m\mathbf{v}.$$

The cross product of any vector with itself is zero, so the second term vanishes. Hence with the definition of force $\mathbf{F} = m\mathbf{a}$ (Newton's 2nd law),

$$\frac{d\mathbf{L}}{dt} = \mathbf{r} \times \mathbf{F}.$$

Then by definition, torque $\boldsymbol{\tau} = \mathbf{r} \times \mathbf{F}$.

If multiple forces are applied, Newton's second law instead reads $\mathbf{F}_{\text{net}} = m\mathbf{a}$, and it follows that

$$\frac{d\mathbf{L}}{dt} = \mathbf{r} \times \mathbf{F}_{\text{net}} = \boldsymbol{\tau}_{\text{net}}.$$

The proof relies on the assumption that mass is constant; this is valid only in non-relativistic systems in which no mass is being ejected.

Units

Torque has dimensions of force times distance. Official SI literature suggests using the unit newton meter (N m) or joule per radian.[7] The unit newton meter is properly denoted "N m" or "N·m", but not other combinations[8] (this avoids ambiguity—for example, mN is the symbol for millinewtons, nm is the symbol for nanometers, etc.)

The joule, which is the SI unit for energy or work, is dimensionally equivalent to a N m, but this unit is

not used for torque. Energy and torque are entirely different concepts, so the practice of using different unit names for them helps avoid mistakes and misunderstandings.[7] The dimensional equivalence of these units, of course, is not simply a coincidence: a torque of 1 N m applied through a full revolution will require an energy of exactly 2π joules. Mathematically,

$$E = \tau\theta$$

where E is the energy, τ is magnitude of the torque, and θ is the angle moved (in radians). This equation motivates the alternate unit name of "joules per radian".[7]

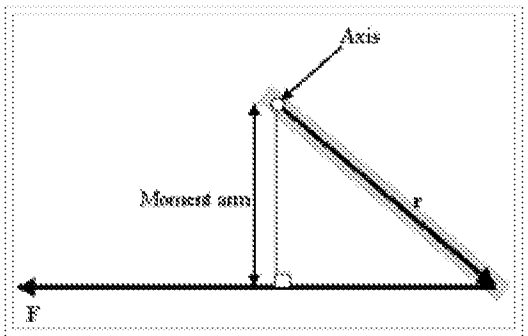
Other non-SI units of torque include "pound-force-feet" or "foot-pounds-force" or "inch-pounds-force" or "ounce-force-inches" or "meter-kilograms-force" or "kilogrammeter" (kgm). For all these units, the word "force" is often left out,[9] for example abbreviating "pound-force-foot" to simply "pound-foot". (In this case, it would be implicit that the "pound" is pound-force and not pound-mass.)

Special cases and other facts

Moment arm formula

A very useful special case, often given as the definition of torque in fields other than physics, is as follows:

$$|\tau| = (\text{moment arm})(\text{force}).$$



Moment arm diagram

The construction of the "moment arm" is shown in the figure below, along with the vectors **r** and **F** mentioned above. The problem with this definition is that it does not give the direction of the torque but only the magnitude, and hence it is difficult to use in three-dimensional cases. If the force is perpendicular to the displacement vector **r**, the moment arm will be equal to the distance to the centre, and torque will be a maximum for the given force. The equation for the magnitude of a torque, arising from a perpendicular force:

$$|\tau| = (\text{distance to center})(\text{force}).$$

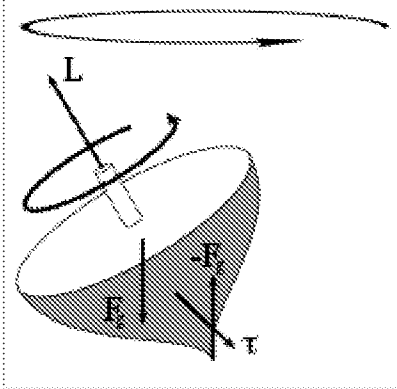
For example, if a person places a force of 10 N on a spanner (wrench) which is 0.5 m long, the torque will be 5 N m, assuming that the person pulls the spanner by applying force perpendicular to the spanner.

Static equilibrium

For an object to be in static equilibrium, not only must the sum of the forces be zero, but also the sum of the torques (moments) about any point. For a two-dimensional situation with horizontal and vertical forces, the sum of the forces requirement is two equations: $\Sigma H = 0$ and $\Sigma V = 0$, and the torque a third equation: $\Sigma\tau = 0$. That is, to solve statically determinate equilibrium problems in two-dimensions, we use three equations.

Net Force vs. Torque

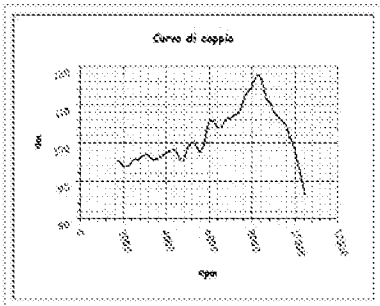
When the net force on the system is zero, the torque measured from any point in space is the same. For example, the torque on a current-carrying loop in a uniform magnetic field is the same regardless of your point of reference.



The torque caused by the two opposing forces $\mathbf{F}_g$ and $-\mathbf{F}_g$ causes a change in the angular momentum **L** in the direction of that torque. This causes the top to precess.

Machine torque

Torque is part of the basic specification of an engine: the power output of an engine is expressed as its torque multiplied by its rotational speed of the axis. Internal-combustion engines produce useful torque only over a limited range of rotational speeds (typically from around 1,000–6,000 rpm for a small car). The varying torque output over that range can be measured with a dynamometer, and shown as a torque curve. The peak of that torque curve occurs somewhat below the overall power peak. The torque peak cannot, by definition, appear at higher rpm than the power peak.



Torque curve of a motorcycle ("BMW K 1200 R 2005"). The horizontal axis is the speed (in rpm) that the wheels are turning, and the vertical axis is the torque (in Newton metres) that the engine is capable of providing at that speed.

Understanding the relationship between torque, power and engine speed is vital in automotive engineering, concerned as it is with transmitting power from the engine through the drive train to the wheels. Power is a function of torque and engine speed. The gearing of the drive train must be chosen appropriately to make the most of the motor's torque characteristics. Power at the drive wheels is equal to engine power less mechanical losses regardless of any gearing between the engine and drive wheels.

Steam engines and electric motors tend to produce maximum torque close to zero rpm, with the torque diminishing as rotational speed rises (due to increasing friction and other constraints). Reciprocating steam engines can start heavy loads from zero RPM without a clutch.

Relationship between torque, power and energy

If a force is allowed to act through a distance, it is doing mechanical work. Similarly, if torque is allowed to act through a rotational distance, it is doing work. Mathematically, for rotation about a fixed axis through the center of mass,

$$W = \int_{\theta_1}^{\theta_2} \tau \, d\theta,$$

where W is work, τ is torque, and θ_1 and θ_2 represent (respectively) the initial and final angular positions of the body.[10] It follows from the work-energy theorem that W also represents the change in the rotational kinetic energy K_{rot} of the body, given by

$$K_{rot} = \tfrac{1}{2} I \omega^2,$$

where I is the moment of inertia of the body and ω is its angular speed.[10]

Power is the work per unit time, given by

$$P = \boldsymbol{\tau} \cdot \boldsymbol{\omega},$$

where P is power, $\boldsymbol{\tau}$ is torque, $\boldsymbol{\omega}$ is the angular velocity, and $\cdot$ represents the scalar product.

Mathematically, the equation may be rearranged to compute torque for a given power output. Note that the power injected by the torque depends only on the instantaneous angular speed - not on whether the angular speed increases, decreases, or remains constant while the torque is being applied (this is equivalent to the linear case where the power injected by a force depends only on the instantaneous speed - not on the resulting acceleration, if any).

In practice, this relationship can be observed in power stations which are connected to a large electrical power grid. In such an arrangement, the generator's angular speed is fixed by the grid's frequency, and the power output of the plant is determined by the torque applied to the generator's axis of rotation.

Consistent units must be used. For metric SI units power is watts, torque is newton meters and angular speed is radians per second (not rpm and not revolutions per second).

Also, the unit newton meter is dimensionally equivalent to the joule, which is the unit of energy. However, in the case of torque, the unit is assigned to a vector, whereas for energy, it is assigned to a scalar.

Conversion to other units

For different units of power, torque, or angular speed, a conversion factor must be inserted into the equation. Also, if rotational speed (revolutions per time) is used in place of angular speed (radians per time), a conversion factor of 2π must be added because there are 2π radians in a revolution:

$$\text{power} = \text{torque} \times 2\pi \times \text{rotational speed},$$

where rotational speed is in revolutions per unit time.

Useful formula in SI units:

$$\text{power (kW)} = \frac{\text{torque (N} \cdot \text{m)} \times 2\pi \times \text{rotational speed (rpm)}}{60000}$$

where 60,000 comes from 60 seconds per minute times 1000 watts per kilowatt.

Some people (e.g. American automotive engineers) use horsepower (imperial mechanical) for power, foot-pounds (lbf·ft) for torque and rpm (revolutions per minute) for angular speed. This results in the formula changing to:

$$\text{power (hp)} = \frac{\text{torque(lbf} \cdot \text{ft)} \times 2\pi \times \text{rotational speed (rpm)}}{33000}.$$

The constant below in, ft·lbf./min, changes with the definition of the horsepower; for example, using metric horsepower, it becomes ~32,550.

Use of other units (e.g. BTU/h for power) would require a different custom conversion factor.

Derivation

For a rotating object, the *linear distance* covered at the circumference in a radian of rotation is the product of the radius with the angular speed. That is: linear speed = radius × angular speed. By definition, linear distance=linear speed × time=radius × angular speed × time.

By the definition of torque: torque=force × radius. We can rearrange this to determine force=torque ÷ radius. These two values can be substituted into the definition of power:

$$\text{power} = \frac{\text{force} \times \text{linear distance}}{\text{time}} = \frac{\left(\frac{\text{torque}}{r}\right) \times (r \times \text{angular speed} \times t)}{t} =$$

The radius r and time t have dropped out of the equation. However angular speed must be in radians, by the assumed direct relationship between linear speed and angular speed at the beginning of the derivation. If the rotational speed is measured in revolutions per unit of time, the linear speed and distance are increased proportionately by 2π in the above derivation to give:

$$\text{power} = \text{torque} \times 2\pi \times \text{rotational speed}.$$

If torque is in lbf·ft and rotational speed in revolutions per minute, the above equation gives power in ft·lbf/min. The horsepower form of the equation is then derived by applying the conversion factor 33000 ft·lbf/min per horsepower:

$$\text{power} = \text{torque} \times 2\pi \times \text{rotational speed} \cdot \frac{\text{ft} \cdot \text{lbf}}{\text{min}} \times \frac{\text{horsepower}}{33000 \cdot \frac{\text{ft} \cdot \text{lbf}}{\text{min}}} \approx \frac{\text{torque}}{52}$$

because $5252.113122... = \frac{33000}{2\pi}$.

Principle of Moments

The Principle of Moments, also known as Varignon's theorem (not to be confused with the geometrical theorem of the same name) states that the sum of torques due to several forces applied to *a single* point is equal to the torque due to the sum (resultant) of the forces. Mathematically, this follows from:

$$(\mathbf{r} \times \mathbf{F}_1) + (\mathbf{r} \times \mathbf{F}_2) + \cdots = \mathbf{r} \times (\mathbf{F}_1 + \mathbf{F}_2 + \cdots).$$

See also

- Conversion of units
- Angular momentum
- Mechanical equilibrium
- Moment (physics)
- Rigid body dynamics
- Statics
- Torque converter
- Torque screwdriver
- Torque limiter
- Torque wrench
- Torque tester
- Torsion (mechanics)
- Couple (mechanics)

References

1. ^ Serway, R. A. and Jewett, Jr. J. W. (2003). *Physics for Scientists and Engineers*. 6th Ed. Brooks Cole. ISBN 0-53440-842-7.
2. ^ *Physics for Engineering* by Hendricks, Subramony, and Van Blerk, page 148, Web link (http://books.google.com/books?id=8Kp-UwV4o0gC&pg=PA148)
3. ^ [a] [b] [c] *Dynamics, Theory and Applications* by T.R. Kane and D.A. Levinson, 1985, pp. 90-99: Free download (http://ecommons.library.cornell.edu/handle/1813/638)
4. ^ Tipler, Paul (2004). *Physics for Scientists and Engineers: Mechanics, Oscillations and Waves, Thermodynamics (5th ed.)*. W. H. Freeman. ISBN 0-7167-0809-4.
5. ^ "Right Hand Rule for Torque" (http://hyperphysics.phy-astr.gsu.edu/hbase/tord.html). http://hyperphysics.phy-astr.gsu.edu/hbase/tord.html. Retrieved 2007-09-08.
6. ^ [a] [b] Halliday, David; Resnick, Robert (1970). *Fundamentals of Physics*. John Wiley & Sons, Inc.. p. 184–85.
7. ^ [a] [b] [c] From the official SI website (http://www.bipm.org/en/si/si_brochure/chapter2/2-2/2-2-2.html): "...For example, the quantity torque may be thought of as the cross product of force and distance, suggesting the unit newton metre, or it may be thought of as energy per angle, suggesting the unit joule per radian."
8. ^ "SI brochure Ed. 8, Section 5.1" (http://www1.bipm.org/en/si/si_brochure/chapter5/5-1.html). Bureau International des Poids et Mesures. 2006. http://www1.bipm.org/en/si/si_brochure/chapter5/5-1.html. Retrieved 2007-04-01.
9. ^ See, for example: "CNC Cookbook: Dictionary: N-Code to PWM" (http://www.cnccookbook.com/MTCNCDictNtoPWM.htm). http://www.cnccookbook.com/MTCNCDictNtoPWM.htm. Retrieved 2008-12-17.
10. ^ [a] [b] Kleppner, Daniel; Kolenkow, Robert (1973). *An Introduction to Mechanics*. McGraw-Hill. p. 267–68.

External links

- Power and Torque Explained (http://www.epi-eng.com/ET-PwrTrq.htm) A clear explanation of the relationship between Power and Torque, and how they relate to engine performance.
- "Horsepower and Torque" (http://craig.backfire.ca/pages/autos/horsepower) An article showing how power, torque, and gearing affect a vehicle's performance.
- "Torque vs. Horsepower: Yet Another Argument" (http://kevinthenerd.googlepages.com/torque_vs_hp.html) An automotive perspective
- a discussion of torque and angular momentum in an online textbook (http://www.lightandmatter.com/html_books/2cl/ch05/ch05.html)
- *Torque and Angular Momentum in Circular Motion* (http://www.physnet.org/modules/pdf_modules/m34.pdf) on Project PHYSNET (http://www.physnet.org/).
- An interactive simulation of torque (http://www.phy.hk/wiki/englishhtm/Torque.htm)
- Torque Unit Converter (http://www.lorenz-messtechnik.de/english/company/torque_unit_calculation.php)
- www.mechanismen.be-what is a moment (dutch) (http://www.mechanismen.be/theoretische_mechanica/momenten/momenten-theorie-1.htm)

Retrieved from "http://en.wikipedia.org/wiki/Torque"
Categories: Fundamental physics concepts | Engine technology | Physical quantities | Introductory physics | Rotation

---

- This page was last modified on 13 January 2010 at 20:43.
- Text is available under the Creative Commons Attribution-ShareAlike License; additional terms may apply. See Terms of Use for details.
  Wikipedia® is a registered trademark of the Wikimedia Foundation, Inc., a non-profit organization.
- Contact us

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTELLECTUAL PROPERTY
ALCOA TECHNICAL CENTER, BUILDING C
100 TECHNICAL DRIVE
ALCOA CENTER, PA 15069-0001

COPY MAILED
SEP 27 2006
OFFICE OF PETITIONS

In re Application of	:	
Robert A. Blake et al	:	
Application No. 10/694,649	:	ON PETITION
Filed: October 27, 2003	:	
Attorney Docket No. 01-3235	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 8, 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 May 9, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $450 extension of time submitted with the petition on June 19, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 2856 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 110104

SILICON VALLEY PATEN GROUP LLP
2350 Mission College Boulevard
Suite 360
Santa Clara CA 95054

JAN 6 2005

In re Application of:
Donald S. Stern
Serial No.: 10/694,661
Filed: October 27, 2003
Attorney Docket No.: **GRA003-2D US**

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 October 13, 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 Omkar Suryadevara, on behalf of himself and all the attorneys associated with Customer No. 34036.

The request is APPROVED. There are no attorneys of record at this time.

All future communications from the Office will be directed to, Donald S. Stern, at the address indicated below until otherwise notified by applicant.

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

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

cc: Morris S. Getzels Law Office
6047 Tampa Avenue, Suite 307
Tarzana CA 91356-1176

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIPS MEDICAL SYSTEMS
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3003
22100 BOTHELL EVERETT HIGHWAY
BOTHELL, WA 98041-3003

COPY MAILED

APR 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Christopher, et al. :
Application No. 10/694,666 : DECISION ON PETITION
Filed: October 27, 2003 :
Attorney Docket No. PHUS019017A :

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a timely and proper reply to the final Office action mailed June 6, 2006, which set a three (3) month shortened statutory period for reply. A proper response was received within the allowable period, and the application became abandoned on September 7, 2006.

The Notice of Appeal, filed December 13, 2006, has been entered and made of record. Accordingly, the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

Deposit account 14-1270 will be charged $1500.00 for the instant petition fee and $500.00 for the Notice of Appeal.

The application file is being forwarded to Technology Center 3700, GAU 3737 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON KY 40550-0999

COPY MAILED
DEC 1 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Goin et al.	:	DECISION ON PETITION TO
Application No. 10/694,679	:	WITHDRAW HOLDING OF
Filed: 28 October, 2003	:	ABANDONMENT
Attorney Docket No. 2003-	:	
0168.01 (58521.US/4665.0)	:	

This is a decision on the petition filed on 10 October, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely reply to the non-final Office action mailed on 15 December, 2005, which set a three (3)-month shorted statutory period for reply. Notice of Abandonment was mailed on 28 September, 2006.

Petitioners assert that the non-final Office action mailed on 15 December, 2005, was never received..

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53

(November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support, the petition includes a statement from the practitioner, Scott N. Barker, stating that the Office communication was not received by the practitioner, and attesting to the fact that a search of the file jacket and counsel's docket indicates that counsel did not receive the Office action. A copy of the file jacket and counsel's docket report where the non-received Office action would have been entered had it been received and docketed is attached to, and referenced in, the petition.

The petitioners have made a sufficient showing of nonreceipt of the Office action. As such, there was no abandonment in fact. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

It is noted that applicant has filed an amendment in reply to the Office action mailed on 15 December, 2005, with the present petition. As such the Office action will not be remailed. Rather, the amendment filed with the present petition will be accepted as timely filed.

The application file is being referred to Technology Center Art Unit 2853 for consideration of the reply filed with the present petition.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Neil Steinberg
Steinberg & Whitt, LLP
2665 Marine Way - Suite 1150
Mountain View, CA 94043

COPY MAILED

FEB 09 2006

OFFICE OF PETITIONS

In re Patent No. 6,937,516	:	
Issue Date: August 30, 2005	:	
Application No. 10/694,689	:	NOTICE
Filed: October 28, 2003	:	
Attorney Docket No. 211.001-D1-US	:	

This is in response to the paper filed by facsimile transmission on January 3, 2006, requesting that Small Entity status be removed.

In accordance with the January 3, 2006 request, status as a Small Entity has been removed.

The patent file is being referred to the Files Repository.

Telephone inquiries concerning this matter 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

Date : October 25, 2006

Patent No. :7,114,347
Inventor(s) : Ajay Khatri
Issued :October 3, 2006
Title :CLOSED CYCLE REGRIGERATION SYSTEM AND MIXED COMPONENT
:REFRIGERANT
Docket No. :ADRS-100US

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Design IP, P.C.
5100 W. Tilghman Street,
STE 205
Allentown, PA 18104

CBN/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Peter Tong
1807 Limetree Lane
Mountain View CA 94040

In re Application of:	:
HO, CHI FAI et al	:
Serial No.: 10/694,706	: DECISION ON RENEWED
Filed: Oct. 28, 2003	: PETITION TO ACCEPT
Docket No. 110 CONT3	: DUPLICATE PAPER UNDER
Title: LEARNING METHOD AND SYSTEM THAT CONSIDER A STUDENT'S CONCENTRATION LEVEL	: 37 C.F.R. 1.181

This is a decision on the petition filed on May 13, 2009. The petitioner requests withdrawal of the holding of abandonment and accept duplicate response pursuant to 37 CFR 1.181(a).

The petition is GRANTED.

The present application was held abandoned for failure to timely respond to the final Office action mailed on December 24, 2008 which set a three-month shortened period for reply. Without any extension of time, the application would have been held abandoned on March 25, 2009. However, the Notice of abandonment was not yet mailed.

Petitioner asserts that a timely response to the final office action was transmitted by facsimile to the Office on March 22, 2009. The petitioner has supplied a copy of the amendment. On page 1 of the amendment, the petitioner has also provided a Certificate of Facsimile pursuant to 37 CFR 1.8, dated March 22, 2009 and signed by Colima Tong. Finally, the petitioner has provided a copy of Fax Activities Log with a date of March 22, 2009.

As petitioner has provided convincing evidence that a timely reply to the final Office action of December 24, 2008 was transmitted to the Office on March 22, 2009, there is no abandonment in fact. Any inconvenience or delay caused to applicant is regretted.

In view of the above, the duplicate response papers filed n May 13, 2009 has been accepted. This application is being forwarded to the examiner in Art Unit 3782 for consideration of the Rule 116 amendment.

PETITION GRANTED

Robert Olszewski, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WADDEY & PATTERSON, PC
1600 DIVISION STREET
SUITE 500
NASHVILLE, TN 37203

COPY MAILED

OCT 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Henry E. Juszkiewicz, et al.	:	
Application No. 10/694,710	:	DECISION ON PETITION
Filed: October 28, 2003	:	TO WITHDRAW
Attorney Docket No. N9649	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 17, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Waddey & Patterson, PC has been revoked by the assignee of the patent application on May 20, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: MATTHEW W. SIEGAL
STROOCK & STROOCK & LAVAN, LLP
180 MAIDEN LANE
NEW YORK, NY 10038

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GALLAGHER & LATHROP, PC
601 CALIFORNIA STREET, SUITE 1111
SAN FRANCISCO, CA 94108

COPY MAILED

SEP 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Peter G. Craven et al	:	
Application No. 10/694,712	:	DECISION ON PETITION
Filed: October 27, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. D0L06511	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 30, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the instant petition was not received within sufficient time to avert the issuance of the above-identified application into a patent. The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

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**.

Since this application has issued, the concurrently filed request for continued examination (RCE) is improper and will not be processed. In view thereof, no fee has been assessed to the RCE. Further, no fee has been assessed to the instant petition under 37 CFR 1.313(c)(2).

The Information Disclosure Statement has been placed in the record of the above-identified application without further consideration. See 37 CFR 1.97(i).

Telephone inquiries should be directed to the undersigned at (703) 305-8680. Effective September 27, 2004, the new phone number will be 571-272-3218.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Hoang T. Tran	: DECISION ON REQUEST FOR
Patent Number	: 7664888	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/694,729	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **351** 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 : Hoang T. Tran
Patent Number : 7664888
Issue Date : 02/16/2010
Application No : 10/694,729
Filed : 10/29/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **392** 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

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

AUG 30 2005

C.A. Rowley
P.O. Box 59
51 Riverside Parkway
Frankford, ON
K0K 2C0
CANADA

In re Application of
Paul Higginbotham et al.
Application No. 10/694,744
Filed: October 29, 2003
For: LIFE JACKET

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on February 15, 2005.

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

☐ Postcard receipt being dated_____.

☒ USPTO return facsimile receipt dated August 26, 2004.

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

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

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

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

☐ Originally sent response, filed _____.

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

RAR/js: 7/29/05

Randolph A. Reese
Special Programs Examiner
Group 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

Paper No. None

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

COPY MAILED
JUN 03 2004
OFFICE OF PETITIONS

In re Application of :
Kyle Doyel et al. :
Application No. 10/694,747 :
Filed: October 29, 2003 :
Attorney Docket No.: :
056276.51245DV :
Title: CLEANING COMPOSITIONS :
CONTAINING DICHLOROETHYLENE AND :
SIX CARBON ALKOXY SUBSTITUTED :
PERFLUORO COMPOUNDS :

DECISION ON PETITION

This is a decision on the petition filed March 23, 2004, requesting that the above-identified application, including page 37 of the specification, be accorded a filing date of October 29, 2003 as part of the original disclosure.

The application was deposited on October 29, 2003. However, on March 5, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application (notice)", stating that the application had been accorded a filing date, and advising applicants that page 37 of the specification appeared to have been omitted.

In response, on March 23, 2004, applicants filed the present petition. The petition is further accompanied by a copy of Page 37 of the specification, along with a copy of applicants' postcard receipt acknowledging receipt of "Specification, including 33 claims (pages 61)" in the United States Patent and Trademark Office (Office) on October 29, 2003. Applicants request that page 37 of the specification be accorded a filing date of October 29, 2003.

It is noted that 39 pages of specification, 20 pages of claims, and a one page abstract have been located in the electronic file.

Upon review of the record, the above-mentioned page has not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 29, 2003 included Page 37 of the specification, and this sheet was subsequently misplaced in the Office.

Therefore, the application, including Page 37 of the specification, was complete on filing and entitled to a filing date of October 29, 2003 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed March 5, 2004 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 has not been charged to Petitioner's Deposit Account.

The application file is being returned to OIPE for further processing with a filing date of October 29, 2003, using the original application papers filed on that date, as well as Page 37 of the specification submitted on March 23, 2004, and for noting in Office records that this sheet was present on filing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Vesta M. Attaway
2740 Stoughton Way
Sacramento, CA 95827

MAILED

JUN 1 0 2005

Director's Office
Group 3700

In re application of Sebastian LaMont Attaway	:	**NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313**
Serial Number: 10/694752 Filed: October 29, 2003	:	

For: **CORDLESS HAIR DRYER (THE TOOTIE)**

The above-identified application is withdrawn from issue after payment of the issue fee to permit reopening of prosecution. The examiner will communicate an office action to you.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the applicant.

Telephone inquiries should be directed to Henry Bennett at (571) 272-4475.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700
571-272-3750

rt/ 6/10/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AKERMAN SENTERFITT
801 PENNSYLVANIA AVENUE NW, STE. 600
WASHINGTON, D.C. 20004

COPY MAILED

JUN 05 2006

OFFICE OF PETITIONS

In re Application of :
Yosuke Miki et al :
Application No. 10/694,772 : ON PETITION
Filed: October 29, 2003 :
Attorney Docket No. 71450.0009

This is a decision on the petition filed, May 26, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 4, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2859 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 : 12/28/05

TO SPE OF : ART UNIT **2676**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/694781 6943807

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

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

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

~~A lower~~ Dependent claim cannot depend on a higher claim. i.e., Claim 6 cannot depend on Claim 8.

MATTHEW C. BELLA
SPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

2676
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

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

COPY MAILED

JUL 1 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Maus, et al.	:	
Application No. 10/694,816	:	DECISION ON PETITION
Filed: October 29, 2003	:	
Attorney Docket No. 1024943-000056	:	

This is a decision on the petition, filed April 22, 2008 under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The Office contended that this application became abandoned on February 27, 2008, for failure to submit the issue fee and publication by February 26, 2008, as was required by the November 26, 2007 Notice of Allowance and Fee(s) Due. A Notice of Abandonment was mailed on March 25, 2008.

On February 25, 2008 applicants filed a PTOL-85b fee transmittal. Applicants authorized the Office to charge all required fees to applicants' deposit account. However, through inadvertent mistake, a deposit account number was not provided on the PTOL-85b.

Where it is clear that an applicant actually intends to pay the issue fee and required publication fee, but the proper fee payment is not made, for example, an incorrect issue fee amount is supplied, or a PTOL-85B Fee(s) Transmittal form is filed without payment of the issue fee, a general authorization to pay fees or a specific authorization to pay the issue fee, submitted prior to the mailing of a notice of allowance, will be allowed to act as payment of the correct issue fee. 37 CFR 1.311(b) MPEP 1306

It is clear that applicants intended to pay the issue fee from a brief glance at the PTOL-85b. Several general authorizations to pay fees are present in the application file. Therefore, the Office should have charged the issue fee and publication fee to the deposit account listed in the application file.

Accordingly, the holding of abandonment is **withdrawn,** the March 25, 2008 Notice of Abandonment is **vacated**, and the petition under 37 CFR 1.181 is **granted**. No petition fee has been or will be charged in connection with this matter.

The issue fee of $1,440.00 and the publication fee of $300.00 will be charged to deposit account no. 02-4800.

After the mailing of this decision, the application file will be forwarded to the Office of Data Management for processing into a patent.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

OCT 05 2004

TECHNOLOGY CENTER 3600

RICHARD C. LITMAN
LITMAN LAW OFFICES, LTD.
P.O. BOX 15035
ARLINGTON, VA 22215

In re application of	:	**DECISION ON PETITION**
Al Brown et al.	:	**TO MAKE SPECIAL**
Application No. 10/694,829	:	**(APPLICANT'S AGE)**
Filed: October 29, 2003	:	
For: PLANT-ON TRIM ELEMENTS AND METHODS		

This is a decision on the petition submitted on October 29, 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 signed declaration indicating Mr. Brown is at least 65 years of age.

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

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

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

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

KJD/slb: 9/28/04

SPE N. Patel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/694,830

Paper No.: _____

DATE : 6/20/05

TO SPE OF : ART UNIT 2879

SUBJECT : Request for Certificate of Correction on Patent No.: 6885137

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

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

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

Georgia Y. Epps — **SPE**

2873 — **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

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

COPY MAILED

JUL 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Kim, Jin Ook	:	
Application No. 10/694,838	:	ON PETITION
Filed: October 29, 2003	:	
Attorney Docket No. 054358-5019	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 30, 2007 (supplemented March 28, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to properly reply to the final Office action mailed July 10, 2006. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on December 11, 2006.

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

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

---

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

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

The instant petition lacks item (1). Since the Request for Continued Examination (RCE) filed on December 11, 2006, was signed by a patent practitioner whose registration number was inactive, a new RCE signed by an appropriate party in accordance with 37 CFR 1.33(b) is required now to replace the defective document.

Upon submission of a properly signed RCE, prosecution will resume from its current position. The non-final Office action mailed January 3, 2007 will not be withdrawn.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

COPY MAILED

AUG 3 1 2007

OFFICE OF PETITIONS
ON PETITION

In re Application of	:
Kim, Jin Ook	:
Application No. 10/694,838	:
Filed: October 29, 2003	:
Attorney Docket No. 054358-5019	:

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed August 3, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This matter is being referred to Technology Center 2800 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gerald A. Gowan
Marks & Clerk
1075 North Service Road West
Suite 203
Oakville, Ontario L6M 2G2
CANADA

COPY MAILED

AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of
DURDON
Application No.: 10/694,852
Filed: October 29, 2003
Attorney Docket No.: 2077-42

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed February 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 31, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained and a Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on September 1, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of May 31, 2005 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 3727.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7,301,834 B2
Serial No. : 10/694,861
Inventor(s) : Nakamura
Issued : November 27, 2007
Title : **SEMICONDUCTOR MEMORY**
Docket No. : **244682US2S**

Re: Request for Certificate of Correction

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

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

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

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

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

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

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

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

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

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

If 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.

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

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

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

FITZPATRICK CELLA HARPER &
SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

JAN 18 2007

OFFICE OF PETITIONS

In re Patent No. 6,944,418 :
TAMAOKI :
Issue Date: September 13, 2005:
Application No. 10/694,862 :
Filed: October 29, 2003 :
Atty Docket No. 03500.017676 :

LETTER REGARDING
PATENT TERM ADJUSTMENT

This is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT," filed September 30, 2006 (and resubmitted on January 11, 2007). Pursuant to patentee's duty of good faith and candor to the Office, patentee requests review of the Patent Term Adjustment (PTA) determined for the above-identified patent.

The request for reconsideration of patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of sixty-seven (67) days.

On September 13, 2005, this application matured into U.S. Patent No. 6,944,418, with a revised patent term adjustment of 70 days. Patentee indicates that the patent term adjustment was incorrectly calculated based on the Issue Fee payment being verified on March 5, 2005. In fact, the Issue Fee payment was not received until March 7, 2005. Accordingly, entry of a period of reduction of 1 day (pursuant to 1.704(b)) and correction of the period of adjustment (pursuant to 1.702(a)(4) and 1.703(a)(6)) from 70 days to 68 days is appropriate.

The Office appreciates patentee's submission on January 11, 2007 of additional information in furtherance of their duty of good

faith and candor to the Office. Patentees are correct with respect to the bases and amounts of correction of the patent term adjustment. A review of the record confirms that the Issue Fee payment (and thereby, satisfaction of all outstanding requirements) was filed on March 7, 2005, three months and 1 day after the mailing of the notice of allowance on December 6, 2004. Likewise, the Office issued the patent on September 13, 2005, four months and 68 days (not 70) later.

In view thereof, the patent should have issued with a revised patent term adjustment of sixty-seven (67) days.

As this letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks patentee for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by sixty-seven (67) 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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,944,418 B2

DATED : September 13, 2005

INVENTOR(S) : Tamaoki

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 (70) days

Delete the phrase "by 70" and insert – by 67 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

MAY 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Harold Orlamunder, et al.	:	
Application No. 10/694,908	:	DECISION ON PETITION
Filed: October 29, 2003	:	
Attorney Docket No. Q78087	:	

This is a decision on the petition filed April 6, 2010 to revive the above identified application.

The petition is **dismissed**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1,620. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given to the petition until the required fee is received.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-2991.

Terri Johnson

Terri Johnson
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

ORIGINAL
MAILED
11/30/06
TC 2600
K. Wieder
QAS 2600

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

In re Application of SASAKI, GEN Application No. 10/694,909 Filed: October 29, 2003 For: **IMAGE PROCESSING CIRCUIT OF IMAGE INPUT DEVICE**	: : : : :	DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the petition, filed September 15, 2006, under 37 CFR 1.181(a)(3) for consideration of a reference included with an Information Disclosure Statement filed October 29, 2003

A review of the application file reveals that the information disclosure listing submitted on October 29, 2003, has been considered by the examiner. An initialed Form PTO-1449 was attached to the Notice of Allowability mailed June 16, 2006. Attached to this decision is a copy of the initialed Form PTO-1449.

Accordingly, Petitioner's request is **Dismissed as Moot**.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

Enclosure: Initialed Form PTO-1449

Form PTO 1449 (Modified)

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

LIST OF REFERENCES CITED BY APPLICANT

ATTY DOCKET NO.	SERIAL NO.
244181US2 DIV	New Application
APPLICANT	
Gen SASAKI	
FILING DATE	GROUP
Herewith	Unassigned

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
	AA						
	AB						
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						
	AL						
	AM						
	AN						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION YES	TRANSLATION NO
nt	AO	10-42181	02/13/98	Japan (with English Abstract)		X
	AP					
	AQ					
	AR					
	AS					
	AT					
	AU					
	AV					

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)

	AW	
	AX	
	AY	
	AZ	

☐ Additional References sheet(s) attached

Examiner: Chandran

Date Considered: 6/9/06

*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

I:\ATTY\ZS\24'S\244181US2 DIV\244181 PTO 1449.DOC

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Scott D. Rothenberger
Dorsey & Whitney LLP
Intellectual Property Department
Suite 1500, 50 South Sixth Street
Minneapolis, MN 55402-1498

COPY MAILED

JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Joseph J. Kirkland et al	:	DECISION
Application No. 10/694918	:	ON PETITION
Filed: October 28, 2003	:	37 CFR 1.137(b)
Attorney Docket No. 11047.03	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1) a proper reply to the office action mailed on May 17, 2004 and (4) a proper Terminal Disclaimer in accordance to 37 CFR 1.321(c).

There is no indication that the person signing the Terminal Disclaimer to the Double Patenting Rejection was ever given a power of attorney or authorization of agent to prosecute the above identified application. See 37 CFR 1.321(b) and (c).

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 further 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.

An associate power of attorney or authorization from an unregistered person will not be recognized or accepted. See 37 CFR 1.34(b).

The instant application was originally filed with an Application Data Sheet. As set forth in 37 CFR 1.76(d)(2), the information contained in the Application Data Sheet directed to the Correspondence and Representative information will govern.

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

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

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

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this decision should be directed to Gene Kim at (571) 272-6052 or the undersigned at (571)272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Scott D. Rothenberger
DORSEY & WHITNEY LLP
Intellectual Property Department
50 South Sixth Street, Suite 1500
Minneapolis MN 55402-1498

COPY MAILED

SEP 2 3 2005

OFFICE OF PETITIONS

In re Application of
KIRKLAND et al.
Application No. 10/694,918
Filed: October 28, 2003
Attorney Docket No. 11047.03

DECISION
ON PETITION

This is a decision on a renewed petition under 37 CFR 1.137(b), filed August 2, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to a non-final office action mailed May 17, 2004, which set a period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 18, 2004.

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

The instant petition does not satisfy requirement (1). While the Application Data Sheet filed with the Preliminary Amendment dated October 28, 2003 includes correspondence information to be addressed to Scott D. Rothenberger, this individual has not been appointed an attorney of record. As such, there is still no indication that the person signing the Terminal Disclaimer

Responsive to a Double Patenting Rejection was given power attorney to prosecute the above-identified application. See 37 CFR 1.321(c)(2). Presently, the following practitioners are of record: Mark Z. Dudley, Frank R. Perillo, and Patrick J. Barrett.

Additionally, the Change of Correspondence Address must be made by parties identified in 37 CFR 1.33(a)(2), which excludes registered attorneys not of record who act in a representative capacity under the provisions of 37 CFR 1.34. See 37 CFR 1.33(a)(2) and (b)(2). As such, the correspondence address has not been changed.

The petition fee of $1500 was paid with the original petition filed on January 27, 2005 under 37 CFR 1.137(b). A duplicate payment for the petition fee in this renewed petition under 37 CFR 1.137(b) was unnecessary and will be refunded to petitioner's deposit account. In addition, the duplicate payment of $130 for the terminal disclaimer was unnecessary and will be refunded.

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 Denise Pothier at (571) 272-4787.

Brian Hearn
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

FRANK R. PERILLO
AGILENT TECHNOLOGIES, INC.
INTELLECTUAL PROPERTY ADMINISTRATION, LEGAL DEPT.
P.O. BOX 7599
M/S DL429
LOVELAND CO 80537-0599

COPY MAILED

NOV 25 2005

OFFICE OF PETITIONS

In re Application of	:	DECISION
KIRKLAND et al.	:	ON PETITION
Application No. 10/694,918	:	
Filed: October 28, 2003	:	
Attorney Docket No. 11047.03	:	

This is a decision on a renewed petition under 37 CFR 1.137(b), filed November 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 17, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 18, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Response and Amendment Under 37 CFR 1.111, a properly executed terminal disclaimer, and its requisite fee; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final action of May 17, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is being forwarded to Group Art Unit 1754 for further processing.

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

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

COPY MAILED

MAY 2 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Ian A. Maxwell, et al.	:	
Application No. 10/694,928	:	DECISION ON REQUEST
Filed: October 27, 2003	:	TO WITHDRAW
Attorney Docket No. 304122000600	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed January 12, 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 CFR § 1.136(a).

The request was signed by Gladys H. Monroy on behalf of all the attorneys of record. Accordingly, there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor or (2) the assignee of the entire interest. All future communications from the Office will be directed to the first named inventor at the first copied address below until otherwise properly notified by applicant. A copy of this decision is also being mailed to the address noted on the request.

Applicant should note that there is an outstanding final Office action mailed March 23, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at 571-272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: IAN A. MAXWELL
9 NEWCASTLE STREET
FIVE DOCK, NEW SOUTH WALES 2046

DR. JAMES HARRIS
FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL, SUITE 201
MENLO PARK, CA 94025

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/03/10

TO SPE OF : ART UNIT 2613

SUBJECT : Request for Certificate of Correction for Appl. No.: 10694933 Patent No.: 7222042

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.

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

Comments: _____

KENNETH VANDERPUYE
SUPERVISORY PATENT EXAMINER

SPE

2613
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. 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. : 7,222,042 B2

APPLICATION NO.: 10/694,933

ISSUE DATE : May 22, 2007

INVENTOR(S) : Fishman et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Drawings

Sheet 5, Fig. 3C, replace a portion of Fig. 3C with the figure portion below, wherein at the "yes" instance of step 354 "To Step 388" is changed to --To Step 394--

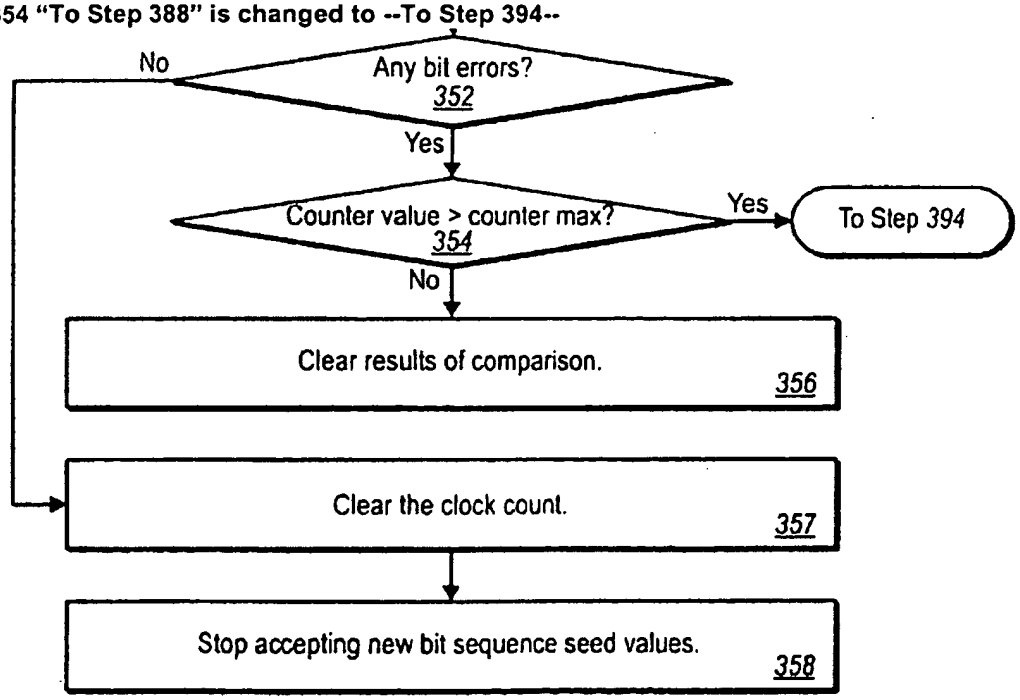


Fig. 3C

MAILING ADDRESS OF SENDER (Please do not use customer number)

John T. Gadd, WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

This collection of information is required by 37 CFT 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. 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. : 7,222,042 B2

APPLICATION NO.: 10/694,933

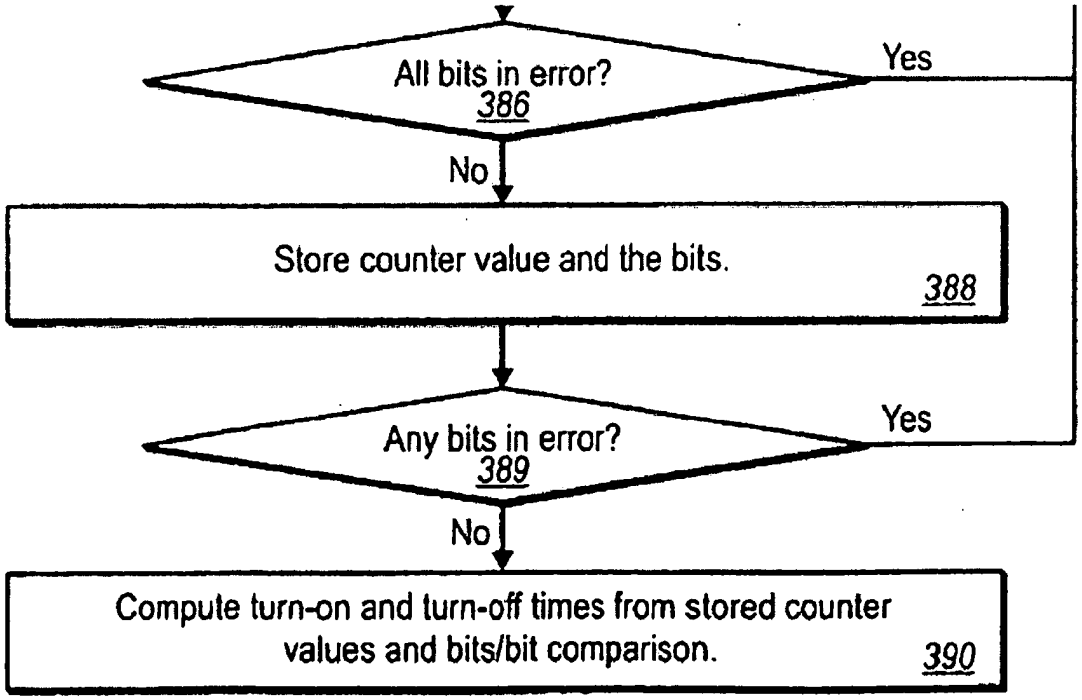
ISSUE DATE : May 22, 2007

INVENTOR(S) : Fishman et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Drawings

Sheet 7, Fig. 3E, replace a portion of the figure with the figure portion below, wherein on steps "386" and "389", "yes" is changed to --no-- and "no" to --yes-- on both instances.



MAILING ADDRESS OF SENDER (Please do not use customer number)

John T. Gadd, WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

This collection of information is required by 37 CFT 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. 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. : 7,222,042 B2

APPLICATION NO.: 10/694,933

ISSUE DATE : May 22, 2007

INVENTOR(S) : Fishman et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 5
Line 22, change "a I/O port" to --an I/O port--

Column 7
Line 33, change "system may" to --system 212 may--

Column 9
Line 18, change "170Q" to --170--

MAILING ADDRESS OF SENDER (Please do not use customer number)

John T. Gadd, WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

This collection of information is required by 37 CFT 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/03/10

TO SPE OF : ART UNIT 2613

SUBJECT : Request for Certificate of Correction for Appl. No.: 10694933 Patent No.: 7222042

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: _____

KENNETH VANDERPUYE
SUPERVISORY PATENT EXAMINER

SPE

2613
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

January 2006

Hae-Chan Park
McGuire Woods, LLP
Suite 1800
1750 Tysons Blvd.
McLean, VA 22102

JAN 1 2 2006

In re Application of: JAE-BON KOO ET AL. Serial No.: 10/694,941 Filed: October 29, 2003 Docket: 6161.0077.US Title: FLAT PANEL DISPLAY AND FABRICATION METHOD THEREOF	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102(d) & M.P.E.P. § 708.02 (VIII)

This is a decision on the petition filed on November 01, 2004 to make the above-identified application special for accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petitioner provides: a) the applicable fee; b) a statement that all claims are believed to be directed to a single invention; c) a statement that a pre-examination search was made; d) copies of each reference deemed to be the most closely-related references uncovered in the pre-examination search; and e) a detailed discussion of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) the applicable petition fee; b) all claims are directed to a single invention or if the Office determines that all the claims presented are not obviously directed to a single invention, that applicant will make an election without traverse as a prerequisite to the grant of special status; c) a statement that a pre-examination search was made, listing the field of search by class and subclass; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a), (c) and (d) are considered to have been met. However, the petition fails to meet the requirements of MPEP § 708.02(VIII)(b) and (e).

The petition does not meet the requirement of MPEP § 708.02(VIII)(b) because it lacks a statement that should the Office determine that all claims presented are not obviously directed to a single invention, petitioner will elect without traverse. Rather, petitioner requests the Examiner to contact him in such an event.

The petition further does not meet the requirement of MPEP § 708.02(VIII)(e) because not all of the references cited in the IDS submitted November 1st, 2005 were discussed in detail. In particular, it is noted that the petition does not point out how the claimed subject matter distinguishes over U.S. Patent Application Publication No. 2004/0169182 A1 to Koo et al. (Koo '182).

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any request for reconsideration must include a statement that petitioner will elect without traverse and a detailed discussion of the Koo '182 reference pointing out with the particularity required by 37 CFR 1.111 (b) and (c) how the claimed subject matter is distinguishable over the reference.

Any inquiry regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.

Clayton E. LaBalle, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STERNE, KESSLER, GOLDSTEIN & FOX
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

COPY MAILED
AUG 3 0 2007
OFFICE OF PETITIONS

In re Application of	:	
Rudi Verbist	:	
Application No. 10/694,953	:	DECISION GRANTING PETITION
Filed: October 29, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1875.4600001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 29, 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 10, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Brig Barnum Elliott	: DECISION ON REQUEST FOR
Patent Number	: 7668083	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/694,968	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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.

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

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

Mail Date: 05/18/2010

Applicant : Brig Barnum Elliott
Patent Number : 7668083
Issue Date : 02/23/2010
Application No : 10/694,968
Filed : 10/28/2003

: 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 **1732** 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

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

EDWARDS & ANGELL, LLP
P.O. BOX 9169
BOSTON, MA 02209

COPY MAILED

FEB 15 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Raymond D. Zagranski et al. :
Application No. 10/694,973 :
Filed: October 28, 2003 :
Attorney Docket No. (49366) 58917 DIV :

This is a decision on the petition filed August 19, 2005, under 37 CFR 1.181. to withdraw the holding of abandonment for the above-identified application.

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

The application was held abandoned on July 21, 2004 for failure to file a timely response to the non-Final Office Action mailed April 20, 2004, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed June 30, 2005.

Petitioner asserts that a proper response, was filed on September 16, 2004 with a two month extension of time request. In support, petitioner submits a copy of the reply said to have been filed, but not acknowledged, with the U.S. Patent and Trademark Office, which also includes a certificate of mail, dated September 16, 2004, pursuant to 37 CFR 1.8, and a copy of the post card receipt date-stamped by the USPTO on September 20, 2004.

The evidence submitted corroborates a timely response to the non-Final Office Action. In fact, the fee for the two month extension of time was properly applied to the finance account for the above referenced application on September 20, 2004. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

This matter is being referred to Technology Center 3661 for appropriate action on the amendment filed September 16, 2004, a copy of which was submitted upon petition.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

COPY MAILED
JUN 23 2006
OFFICE OF PETITIONS

In re Application of :
Chang-Woong Jeong, et al. :
Application No. 10/694,977 : ON PETITION
Filed: October 28, 2003 :
Attorney Docket No.: 5000-1-383 :

This is a decision on the petition, filed June 19, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 10, 2006, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated May 8, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3654 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : June 23, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Chang-Woong Jeong, et al.
Application No. : 10/694,977
Filed : October 28, 2003

The above-identified application has been assigned Patent No. 7,066,424 and an issue date of June 27, 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 27, 2006:

> "All reference to Patent No. 7,066,424 to CHANG-WOONG JEONG, ET AL. of REPUBLIC OF KOREA for SPOOL FOR WINDING OPTICAL FIBER appearing in the Official Gazette of June 27, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Jan. 26, 2006

TO SPE OF : ART UNIT 2655 (*Wayne Young*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,859,428

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

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

sp Stacy Powell

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

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

Comments:

WAYNE YOUNG
SUPERVISORY PATENT EXAMINER

SPE

2655

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/22/2008

TO SPE OF : ART UNIT 2800 (2853)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,261,395

10/694,995

Attn: An Do

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 dependency to claim 8, from 6 to 1 as req. in C of C?

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.
- **XDenied** — State the reasons for denial below.

Comments:

Claim 8 (same as claim 4 as in Amendment filed on 3/12/2007) depends on independent claim 6 (same as independent claim 2 as in Amendment filed on 3/12/2007) NOT Claim 1 as indicated by the Applicant. Therefore, the request for changing from claim 6 to claim 1 in claim 8 is DENIED since it changes the scope of the claims.

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/695,006	10/27/2003	2661	982	P16187	7	27	4

CONFIRMATION NO. 9173

CORRECTED FILING RECEIPT

OC000000012281708

KONRAD RAYNES VICTOR & MANN LLP
Suite 210
315 S. Beverly Drive
Beverly Hills, CA 90212

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)

Rajesh S. Madukkarumukumana, Portland, OR;
Jie Ni, Portland, OR;

Assignment For Published Patent Application

Intel Corporation;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/05/2004

Projected Publication Date: 04/28/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method, apparatus, system, and article of manufacture for processing control data by an offload adapter

Preliminary Class
370

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BIOMERIEUX, INC.
PATENT DEPARTMENT
100 RODOLPHE STREET
DURHAM, NC 27712

COPY MAILED

APR 0 8 2009

OFFICE OF PETITIONS

In re Application of
Ross Mitchell Blanton, et al.
Application No. 10/695,030
Filed: October 28, 2003
Attorney Docket No. 01057

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 5, 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 July 16, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 17, 2008. A Notice of Abandonment was mailed on January 26, 2009. On February 5, 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 a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1797 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: THOMAS A. FAIRHALL
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

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

BIOMERIEUX, INC.
PATENT DEPARTMENT
100 RODOLPHE STREET
DURHAM, NC 27712

Mail Date: 04/21/2010

Applicant	: Ross Mitchell Blanton	: DECISION ON REQUEST FOR
Patent Number	: 7601300	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/695,030	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1416** 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

BIOMERIEUX, INC.
PATENT DEPARTMENT
100 RODOLPHE STREET
DURHAM NC 27712

MAILED

FEB 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Justin et al.	:	
Application No. 10/695,038	:	ON APPLICATION FOR
Filed: 10/28/2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 01052	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)-(d)" filed November 24, 2008, which is properly being treated under the provisions of 37 CFR 1.705(b). Applicant requests that the determination of patent term adjustment be increased by 246 days to 1151 days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. 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 three years. See 37 CFR 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness

of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment 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 pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, 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.

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on February 22, 2008.

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

The application is being forwarded to the 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 for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney, Christina Tartera Donnell, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BIOMERIEUX, INC.
PATENT DEPARTMENT
100 RODOLPHE STREET
DURHAM NC 27712

MAILED

MAR 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael James Justin, et al.	:	
Application No. 10/695,038	:	DECISION GRANTING PETITION
Filed: October 28, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 01052	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 4, 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 November 24, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1797 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed March 4, 2009.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BIOMERIEUX, INC.
PATENT DEPARTMENT
100 RODOLPHE STREET
DURHAM, NC 27712

Mail Date: 04/21/2010

Applicant	: Michael James Justin	: DECISION ON REQUEST FOR
Patent Number	: 7578978	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/695,038	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1155** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 02-06

Paper No: __

CALFEE HALTER
& GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

COPY MAILED

FEB 1 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Fox, et al.	:	DECISION
Application No.: 10/695,040	:	
Filing Date: 27 October, 2003	:	
Attorney Docket No. 21220/04146	:	

This is a decision on the petition filed on 15 August, 2005 (but the file was not received into the Office of Petitions until this writing), requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

(It is noted, however, that Petitioner may be unable to present a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

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

(3) Petitioner may find that the filing of Status Inquiries at three- or four-month intervals following the filing of substantive papers may not only obviate delays in the Office addressing a matter but also provide documentation of diligence required under 37 C.F.R. §1.181.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a Restriction requirement mailed by the Examiner on 27 January, 2005, with reply due absent extension of time on or before Monday, 28 February, 2005;
- the application went abandoned after midnight 27 February, 2005;
- Petitioner acknowledges that on or about 27 April, 2005, fully within the statutory reply time, Petitioner learned that the Office action had been mailed on 27 January, 2005;
- the Office mailed the Notice of Abandonment on 1 August, 2005;
- Petitioner indicates he took no action in the three and one-half months between 27 April, 2005, and receipt of the Notice of Abandonment;
- Petitioner filed the instant petition on 15 August, 2005, and, while Petitioner has provided copies of docket sheets, Petitioner has not made the statement of his review of the file jacket, and so has not satisfied the strict construction of the requirements set out at MPEP §711.03(c).

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

---

[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.

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]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

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

The commentary at MPEP §711.03(c) provides:

> **A. *Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action***
>
> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of

---

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

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

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

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

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

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

Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

Petitioner has not satisfied the search and statement requirements described (and highlighted) above. Further, Petitioner has yet to explain why it appears that he delayed more than three months after knowing of the Office action before taking any action–including the filing of a Status Inquiry to demonstrate diligence.

CONCLUSION

Because Petitioner has not as yet satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

If Petitioner's only alternative to irretrievable abandonment is a petition alleging unintentional delay under 37 C.F.R. §1.137(b),[8] Petitioner may wish to consider filing a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay.

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form provided and available online.)

Further correspondence with respect to this matter should be addressed as follows:[9]

By mail: Commissioner for Patents[10]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

---

[8] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

[9] On July 15, 2005, the Central Facsimile (FAX) number changed to (571) 273-8300.The old number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

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

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

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

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

PV

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CALFEE HALTER & GRISWOLD, LLP
800 Superior Avenue
Suite 1400
Cleveland, OH 44114

FEB 16 2006

In re Application of:
FOX *et al.*
Serial No.: 10/695,040
Filed: October 27, 2003
Attorney Docket No.: **21220/04146**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed August 15, 2005, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely file a response to the Restriction Requirement mailed on January 27, 2005. A Notice of Abandonment was mailed on August 01, 2005.

Petitioner asserts that the Office action mailed on January 27, 2005, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Office action was not received. A copy of the file docket where the Office action would have been entered was provided to support the petition.

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 practitioner at 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 action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition is sufficient to establish a showing of non-receipt of the Office action mailed on January 27, 2005.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The response filed with the petition is accepted as timely, and will be entered into the record The application will be sent to the examiner for further examination.

Inquiries regarding 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 06-06

Paper No: __

COPY MAILED

JUL 0 3 2006

OFFICE OF PETITIONS

CALFEE HALTER
& GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

In re Application of	:	
Fox, et al.	:	DECISION
Application No.: 10/695,040	:	
Filing Date: 27 October, 2003	:	
Attorney Docket No. 21220/04146	:	

This is a decision on the petition filed on 3 April, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181, alternatively seeking to revive under 37 C.F.R. §1.137(a) (alleging unavoidable delay) or under 37 C.F.R. §1.137(b) (unintentional delay).

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**; and the petition under 37 C.F.R. §1.137(a) is **GRANTED** and the petition as considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

REMINDER: Petitioner may find that the filing of Status Inquiries at three- or four-month intervals following the filing of substantive papers may not only obviate delays in the Office addressing a matter but also evidencing diligence.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a Restriction requirement mailed by the

Examiner on 27 January, 2005, with reply due absent extension of time on or before Monday, 28 February, 2005;

- the application went abandoned after midnight 27 February, 2005;
- Petitioner acknowledges that on or about 27 April, 2005, fully within the statutory reply time, Petitioner learned that the Office action had been mailed on 27 January, 2005;
- the Office mailed the Notice of Abandonment on 1 August, 2005;
- Petitioner indicates he took no action in the three and one-half months between 27 April, 2005, and receipt of the Notice of Abandonment;
- Petitioner filed the original petition on 15 August, 2005, seeking withdrawal of the holding of abandonment, and, while Petitioner provided copies of docket sheets, Petitioner did not make the statement of his review of the file jacket, and so did not satisfy the strict construction of the requirements set out at MPEP §711.09 c), and the petition was dismissed on 26 February, 2006, for failure to make the required showing and failure to file within two months of the known abandonment;
- while the instant petition does not expressly request withdrawal of the holding of abandonment, Petitioner nonetheless does aver an attempt to satisfy the Delgar[1] showing, and alternatively Petitioner expressly seeks revival as abandoned due to unavoidable or unintentional delay, and Petitioner–in light of his earlier submissions–further satisfies the reply and certain showing/statement requirements under 37 C.F.R. §1.137.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is

---

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

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

Petitioner did not satisfy the timeliness requirements.

Allegations as to
Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a statement/showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

---

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

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

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

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

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

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

Petitioner appears to have satisfied the requirements.

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It matter is moot.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **dismissed**; however, the petition under 37 C.F.R. §1.137(a) is **granted**; and the petition under 37 C.F.R. §1.137(b) is **dismissed as moot**.

The instant application is released to the Examiner in Technology Center 2800 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS W. RYAN
PIPER RUDNICK LLP
P.O. BOX 64807
CHICAGO IL 60664-0807

COPY MAILED

MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of	:
Randall D. Ridenour	: DECISION DISMISSING
Application No. 10/695,041	: PETITION UNDER
Filed: October 28, 2003	: 37 CFR 1.137(b)
Attorney Docket No. P-6811	:

This is a decision on the petition, filed November 16, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See 37 CFR 1.137(f).*

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be filed within TWO MONTHS from the mail date of this decision. Extensions of time are available pursuant to the provisions of 37 CFR 1.136(a).

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 petition fails to comply with items (2) and (3) above. Upon careful review of the USPTO records for the above-identified application, there is no evidence of receipt of a Rescission Of Request Not To Publish in the above-identified file. Additionally, the required fee for a petition under 37 CFR 1.137(f) is $1,500 as of December 8, 2004.

The relief provided for by the notice published in the Official Gazette of October 9, 2001, applies only to correspondence deposited by Express Mail under 37 CFR 1.10 and does not apply to mail deposited by first class mail under 37 CFR 1.8. In this regard, applicant's attention is directed to 1251 Official Gazette 55, which states:

> Parties submitting (correspondence to the USPTO are reminded that 37 CFR 1.8 (certificate of mailing or transmission practice) does not provide for according a filing date as of the date of deposit with the USPS to correspondence submitted under 37 CFR 1.8.

Therefore, it would be inappropriate for the filing of the Rescission Of Request Not To Publish under 37 CFR 1.8.

Accordingly, the above matters must be addressed in order to grant the revival of the instant application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JUL 26 2005

OFFICE OF PETITIONS

THOMAS W. RYAN
PIPER RUDNICK LLP
P.O. BOX 64807
CHICAGO, IL 60664-0807

In re Application of	:
Randall D. Ridenour	:
Application No. 10/695,041	: DECISION GRANTING PETITION
Filed: October 28, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. P-6811	:

This is a decision on the renewed petition, filed April 28, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on September 15, 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 November 3, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center Art Unit 3635 for examination in due course.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

COPY MAILED

MAY 27 2004

OFFICE OF PETITIONS

In re Application of	:	
Goertzen, et al.	:	DECISION GRANTING
Application No. 10/695,045	:	PETITION
Filed: October 27, 2003	:	
Attorney Docket No. 12873/04325	:	

This is a decision on the petition under 37 CFR 1.10(c), filed January 20, 2004, requesting that the above-identified application be accorded a filing date of October 27, 2003, rather than the presently accorded filing date of October 28, 2003.

Petitioners allege that the application was deposited in Express Mail service on October 27, 2003. In support, the petition is accompanied by a copy of Express Mail Receipt No. EL084751960US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of October 27, 2003.

In view of the above, the petition is **GRANTED**.

Accordingly, the application is entitled to a filing date of October 27, 2003.

Since the instant petition has been granted, no petition fee is required.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of October 27, 2003 and issuance of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center 3600 for examination in due course.

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

UNITED STATES 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

SMITH MOORE LLP
P.O. BOX 21927
GREENSBORO NC 27420

COPY MAILED

JAN 05 2005

OFFICE OF PETITIONS

In re Application of :
Seungkoo Kang et al. :
Application No. 10/695,060 : DECISION ON PETITION UNDER
Filing Date: October 28, 2003 : 37 C.F.R. §1.53
Attorney Docket No. 5003073-033US1 :
Title: SUPERABSORBENT POLYMER :

This is a decision on the petition under 37 C.F.R. §1.53(e), filed October 26, 2004, requesting that the above-identified application be accorded a filing date of October 28, 2003, with Figures 1-2 as part of the original disclosure of the application.

The application was deposited on October 28, 2003. However, on February 5, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application - Filing Date Not Granted" (notice) stating that the application had not been accorded a filing date, and that a filing date would be accorded upon the deposit of drawings. The notice further indicated that the oath or declaration was not executed. The notice set a two-month period for response.

On April 5, 2004, Figures 1-2 were deposited, along with an executed declaration and the surcharge associated with the late submission of the same. On October 26, 2004, the instant petition was filed, along with the petition fee. On December 15, 2004, a petition to expedite was filed.

Petitioner does not indicate whether the drawings were inadvertently omitted upon filing. Nevertheless he has requested that the Office grant a filing date of October 28, 2003 to the above-identified application.

It is noted that claims 30-31 of the present application are directed towards a process. MPEP §608.02 states, in part:

An OIPE formality examiner should not treat an application without drawings as incomplete if drawings are not required. A drawing is not required for a filing date under 35 U.S.C. 111 and 113 if the application contains:

(A) at least one process claim including the term "process" or "method" in its introductory phrase;
(B) at least one composition claim including the term composition," "compound," "mixture" or "pharmaceutical" in its introductory phrase;
(C) at least one claim directed to a coated article or product or to an article or product made from a particular material or composition (i.e., an article of known and conventional character (e.g., a table), coated with or made of a particular composition (e.g., a specified polymer such as polyvinyl-chloride));
(D) at least one claim directed to a laminated article or product (i.e., a laminated article of known and conventional character (e.g., a table)); or
(E) at least one claim directed to an article, apparatus, or system where the sole distinguishing feature is the presence of a particular material (e.g., a hydraulic system using a particular hydraulic fluid, or a conventional packaged suture using a particular material).

For a more complete explanation about when a drawing is required, see MPEP 601.01(f). For applications submitted without all of the drawings described in the specification, see MPEP § 601.01(g). If an examiner determines that a filing date should not have been granted in an application because it does not contain drawings, the matter should be brought to the attention of the supervisory patent examiner (SPE) for review. If the SPE decides that drawings are required to understand the subject matter of the invention, the SPE should return the application to OIPE with a typed, signed, and dated memorandum requesting cancellation of the filing date and identifying the subject matter required to be illustrated.

Pursuant to this section of the MPEP, it has been PTO practice to treat an application that contains at least one compound, composition, process, or method claim as an application for which a drawing is not necessary for an understanding of the invention under the first sentence of 35 U.S.C. §113. A review of the record reveals that the claims contain process claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as originally filed, is entitled to a filing date of October 28, 2003.

The petition is **GRANTED-IN-PART**.

The notice mailed on February 5, 2004 was sent in error, and is hereby **VACATED**. As such, no petition fee is necessary, and the petition fee has not been charged to Petitioner's Deposit Account.

On April 5, 2004, Petitioner submitted figures 1-2. If petitioner desires for the Examiner to consider these missing pages which were not submitted as part of the original disclosure, then Petitioner may submit these pages as a Preliminary Amendment. The Preliminary Amendment should be filed before first action on the merits. Any such amendment will, of course, be reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 28, 2003, using only the application papers filed on that date.

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

1 See MPEP 608.02(h) and 608.04.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/695,061	10/28/2003	2815	1402	5649-1168	18	36	7

CONFIRMATION NO. 5437

CORRECTED FILING RECEIPT

OC000000012439999

Julie H. Richardson, Esq.
Myers Bigel Sibley & Sajovec, P.A.
P.O. Box 37428
Raleigh, NC 27627

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)

Seong-Ho Kim, Gyeonggi-do, KOREA, REPUBLIC OF;
Dong-Gun Park, Gyeonggi-do, KOREA, REPUBLIC OF;
Chang-Sub Lee, Gyeonggi-do, KOREA, REPUBLIC OF;
Jeong-Dong Choe, Gyeonggi-do, KOREA, REPUBLIC OF;
Sung-Min Kim, Incheon Metropolitan City, KOREA, REPUBLIC OF;
Shin-Ae Lee, Gyeonggi-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2002-66874 10/31/2002

If Required, Foreign Filing License Granted: 01/29/2004

Projected Publication Date: 05/06/2004

Non-Publication Request: No

Early Publication Request: No

Title

Self-aligned semiconductor contact structures and methods for fabricating the same

Preliminary Class

257

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHERNOF VILHAUER MCCLUNG & STENZEL
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND OR 97204-3157

COPY MAILED

FEB 15 2007

OFFICE OF PETITIONS

In re Application	: DECISION ON APPLICATION
Kenneth Minton	: FOR PATENT TERM ADJUSTMENT
Application No. 10/695,066	:
Filed: October 27, 2003	:
Patent No. 6,969,606	:
Issued: November 29, 2005	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT", filed November 28, 2005. Patentee requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to one hundred seventy-five (175) days.

The application for patent term adjustment is **DISMISSED**. Patentee are given 30 days to reply to this decision.

On November 29, 2006, the above-identified application issued into patent No. 6,969,606. The patent stated that the patent term adjustment (PTA) is zero (0) days. On November 28, 2005, patentee timely submitted an application for patent term adjustment, asserting that the correct number of days of PTA is one hundred seventy-five (175) days.

Patentee asserts entitlement to a patent term adjustment under 37 C.F.R. §1.703(a)(6), on the basis that the patent issued more than four months after payment of the issue fee.

The Office determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of zero (0) days, reduced by one hundred seven (107) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(10).

A review of the application file reveals that the issue fee was paid on May 5, 2005 (together with a petition to withdraw the holding of abandonment). Patentee state that he paid the issue fee on February 7, 2005. However, patentee has supplied no USPTO date stamped postcard receipt, evidencing the issue fee filing on that date. Rather, on May 5, 2005, applicant supplied the issue fee, made timely for purposes of abandonment by including a Certificate of Mailing dated February 7, 2005. However, under 37 C.F.R. 1.704(f), a Certificate of Mailing is not taken into account in the determination of patent term adjustment. The instant patent issued on November 29, 2005. Accordingly, PTO delay of eighty-five (85) days should be assessed under 37 C.F.R. §1.703(a)(6), from May 6, 2005 to November 29, 2005.

With respect to the one hundred seven (107) days of applicant delay assessed, this delay has been reviewed and found to be correct. The PTO has stated that the filing of status letters will constitute a "failure to engage".[1]

In view thereof, the correct determination of patent term adjustment at the time of issuance of the patent is **zero (0) days** (85 days of PTO delay, reduced by 107 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

---

[1] See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

703(a)(6) Dismissed

Cliff

PALM INTRANET

Day : Friday
Date: 2/2/2007
Time: 17:32:46

PTA Calculations for Application: 10/695066

Application Filing Date:	10/27/2003	PTO Delay (PTO):	~~0~~ 85
Issue Date of Patent:	11/29/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	107
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
43	11/29/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	85		
42	11/03/2005	RECEIPT INTO PUBS			
41	11/03/2005	DISPATCH TO FDC			
40	~~08/30/2005~~	ISSUE FEE PAYMENT VERIFIED 5/5/05			
39	10/31/2005	RECEIPT INTO PUBS			
38	10/21/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
37	10/21/2005	PETITION TO REVIVE APPLICATION - GRANTED			
36	05/05/2005	PETITION ENTERED			
35	02/07/2005	ISSUE FEE PAYMENT VERIFIED			
34	10/20/2005	WITHDRAW PUBLICATION/PRE-EXAM ABANDON			
33	08/30/2005	ISSUE FEE PAYMENT RECEIVED			
32	08/15/2005	MISCELLANEOUS INCOMING LETTER		107	
31	04/26/2005	MAIL ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
30	04/26/2005	ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
29	04/25/2005	RECEIPT INTO PUBS			
28	12/21/2004	EXPORT TO INITIAL DATA CAPTURE			
27	12/29/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
26	12/14/2004	MAIL NOTICE OF ALLOWANCE			
25	12/13/2004	ISSUE REVISION COMPLETED			
24	12/13/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
23	12/13/2004	CASE DOCKETED TO EXAMINER IN GAU			
22	12/13/2004	NOTICE OF ALLOWABILITY			
21	12/09/2004	DATE FORWARDED TO EXAMINER			
20	11/17/2004	RESPONSE AFTER NON-FINAL ACTION			
19	11/17/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	11/03/2004	MAIL NON-FINAL REJECTION			
17	11/01/2004	NON-FINAL REJECTION			
16	02/06/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	02/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	12/19/2003	REFERENCE CAPTURE ON IDS			
13	12/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

12	01/28/2004	APPLICATION RETURN FROM OIPE			
11	01/28/2004	APPLICATION RETURN TO OIPE			
10	01/28/2004	APPLICATION RETURN FROM OIPE			
9	01/29/2004	APPLICATION IS NOW COMPLETE			
8	01/28/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
7	01/27/2004	APPLICATION RETURN TO OIPE			
6	01/27/2004	APPLICATION DISPATCHED FROM OIPE			
5	01/28/2004	APPLICATION IS NOW COMPLETE			
4	01/20/2004	CLEARED BY OIPE CSR			
3	01/20/2004	CASE CLASSIFIED BY L&R			
2	11/30/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/27/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHERNOF VILHAUER MCCLUNG & STENZEL
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND OR 97204-3157

COPY MAILED

OCT 01 2007

OFFICE OF PETITIONS

In re Application	: DECISION ON APPLICATION
Kenneth Minton	: FOR PATENT TERM ADJUSTMENT
Application No. 10/695,066	:
Filed: October 27, 2003	:
Patent No. 6,969,606	:
Issued: November 29, 2005	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT", filed February 27, 2007. Patentee requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected.[1]

The application for patent term adjustment is **DISMISSED**.

On November 29, 2006, the above-identified application issued into patent No. 6,969,606. The patent stated that the patent term adjustment (PTA) is zero (0) days. On November 28, 2005, patentee timely submitted an application for patent term adjustment, asserting that the correct number of days of PTA is one hundred seventy-five (175) days. Patentee asserted entitlement to a patent term adjustment under 37 C.F.R. §1.703(a)(6), on the basis that the patent issued more than four months after payment of the issue fee.

---

[1] While patentee does not specify the number of days of patent term adjustment believed to be accorded, presumably patentee is requesting a patent term adjustment of 68 days, as patentee does not argue that the 107 days of applicant delay was in error.

The Office determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of zero (0) days, reduced by one hundred seven (107) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(10).

The application for patent term adjustment was dismissed in a decision mailed on February 15, 2007. The decision pointed out that a review of the application file revealed that the 107 days of applicant delay for the filing of a status letter was correct.[2] In addition, the decision agreed with patentee that PTO delay should have been incurred for the Office's failure to issue the patent within four months of payment of the issue fee. However, the decision explained that the PTO delay should only have been 85 days, not 175 days as asserted by patentee.

In the application for patent term adjustment filed November 28, 2005, patentee stated that he paid the issue fee on February 7, 2005. However, the decision noted that patentee supplied no USPTO date stamped postcard receipt, evidencing the issue fee filing on that date. Rather, on May 5, 2005, applicant supplied the issue fee (with a petition to withdraw the holding of abandonment), made timely for purposes of abandonment by including a Certificate of Mailing dated February 7, 2005. However, as noted in the decision, under 37 C.F.R. 1.704(f), a Certificate of Mailing is not taken into account in the determination of patent term adjustment. The instant patent issued on November 29, 2005. Accordingly, PTO delay of eighty-five (85) days should be assessed under 37 C.F.R. §1.703(a)(6), from September 6, 2005 to November 29, 2006.

With the instant request for reconsideration, patentee argues that he did indeed supply a copy of a USPTO date stamped postcard receipt, dated February 7, 2005. Petitioner has included an additional copy with the request for reconsideration. It is noted that the postcard does not contain a USPTO date stamp of February 7, 2005. The USPTO date stamp on the postcard is dated August 30, 2005. The postcard contains a notation by applicant dated February 7, 2005. However, this is not sufficient evidence to overcome the record, which indicates that the issue fee was received on August 30, 2005.

One of two scenarios happened: 1). Applicant mailed the issue fee on February 7, 2005, with a timely Certificate of Mailing.

---

[2] The PTO has stated that the filing of status letters will constitute a "failure to engage". See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

For some unknown reason, the issue fee was not received in the Office until August 30, 2005, at which time the Office date stamped the postcard receipt and returned it to applicant; or 2). Applicant mailed the issue fee on February 7, 2005, with a timely Certificate of Mailing. For some unknown reason, the issue fee arrived in the Office shortly thereafter, where it sat and remained undiscovered until August 30, 2005, at which time the Office date-stamped the postcard receipt and returned it to applicant.

It is petitioner's burden to prove the second scenario. Petitioner did prove that he timely mailed the issue fee on February 7, 2005, as he included a Certificate of Mailing with that date. This is the reason the holding of abandonment was withdrawn. However, as explained above, a Certificate of Mailing is not taken into account in the determination of patent term adjustment.

In view thereof, the correct determination of patent term adjustment at the time of issuance of the patent is **zero (0) days** (85 days of PTO delay, reduced by 107 days of applicant delay).

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kay A Fus
for

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

COPY MAILED

JUN 2 7 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Quintin T. Phillips :
Application No. 10/695,093 :
Filed: October 28, 2003 :
Attorney Docket No. 084061-0524 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed October 8, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 10, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FACTOR & LAKE, LTD
1327 W. WASHINGTON BLVD.
SUITE 5G/H
CHICAGO, IL 60607

COPY MAILED

MAY 27 2008

OFFICE OF PETITIONS

In re Application of Gelder :
Application No. 10/695,112 : Decision on Petition
Filing Date: October 28, 2003 :
Attorney Docket No. VIR-021011CO01 :

This is a decision on the petition filed January 10, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

On April 17, 2007, the Office mailed petitioner a notice giving petitioner an extendable one-month period of time to comply with the sequence rules, 37 CFR 1.821-1.825.

On May 21, 2007, petitioner filed a reply to the April 17, 2007.

On December 31, 2007, the Office mailed a Notice of Abandonment stating the May 21, 2007, was not fully responsive to the April 17, 2007 Notice. The Notice informed petitioner the Compact Disc filed May 21, 2007, was not in ASCII text format.

Petitioner contends the May 21, 2007 Compact Disc was in ASCII text format. Petitioner has supplied a CD petitioner contends is identical to the CD filed May 21, 2007, and states the CD is in ASCII text format.

A review of the contents of the CD filed May 21, 2007, indicates the disc contained a single file. The file is named "Sequence Listing.prj". The file size is 3 KB. When the Office attempted to open the file, the Office was given a message stating, "Windows cannot open this file: ... To open this file, Windows needs to know what program created it." The file is not in an ASCII file format.

A review of the contents of the CD filed with the petition indicates the file presence of a single file. The file is named "Sequence Listing_ST25.txt". The file size is 5 KB. The file is in an ASCII file format.

The CD filed May 21, 2007, is not identical to the CD filed with the petition. The file on the May 21, 2007 CD was not in an ASCII file format. Therefore, the holding of abandonment will not be withdrawn.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($770 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

A copy of a blank petition under 37 CFR 1.137(b) form is enclosed for petitioner's convenience. A PDF "fillable" version of the form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Form PTO/SB/64 (Petition under 37 CFR 1.137(b))
Privacy Act Notice

PTO/SB/64 (01-08)
Approved for use through 05/31/2008. 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:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee
☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FACTOR & LAKE, LTD
1327 W. WASHINGTON BLVD.
SUITE 5G/H
CHICAGO, IL 60607

COPY MAILED

DEC 0 9 2008

OFFICE OF PETITIONS

In re Application of Gelder :
Application No. 10/695,112 :
Filing Date: October 28, 2003 :
Attorney Docket No. VIR-021011CO01 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed July 14, 2008, to revive the above-identified application.

The petition is **granted**.

On April 17, 2007, the Office mailed petitioner a notice giving petitioner an extendable one-month period of time to comply with the sequence rules, 37 CFR 1.821-1.825. On May 21, 2007, petitioner filed a reply to the April 17, 2007. On December 31, 2007, the Office mailed a Notice of Abandonment stating the May 21, 2007, was not fully responsive to the April 17, 2007 Notice. The Notice informed petitioner the Compact Disc filed May 21, 2007, was not in ASCII text format.

A prior petition under 37 CFR 1.181 was filed January 10, 2008. A decision on the petition was mailed May 27, 2008.

The instant petition under 37 CFR 1.137(b) requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

On January 10, 2008, petitioner submitted a proper Compact Disc in response to the April 17, 2007 Notice. Petitioner has submitted the required petition fee of $770. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 1648 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.
105 WEST ADAMS STREET
SUITE 3600
CHICAGO, IL 60603

COPY MAILED

MAR 27 2007

OFFICE OF PETITIONS

In re Application of Mysker :
Application No. 10/695,115 : Decision on Petition
Filing Date: October 28, 2003 :
Attorney Docket No. 1776/40924/PA7 :

This is a decision on the petition filed October 4, 2006, which is being treated as a petition under 37 CFR 1.181 to establish an appeal brief was timely filed April 26, 2006, and the application is not abandoned.

The petition is **granted.**

Office records indicate a complete and proper appeal brief was not filed within the one (1) month of the Notification of Non-Compliance with 37 CFR 1.192(c) mailed March 27, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained.

Unless petitioner demonstrates an appeal brief was in fact timely filed, the appeal will be considered dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(d) & 1.197(c). As no claim has been allowed, the-above-identified application will be considered abandoned. See MPEP 1215.04.

Petitioner contends an appeal brief was timely filed on April 26, 2006. In support of the petition, petitioner has submitted a date-stamped postcard receipt, indicating an amended appeal brief was received on April 26, 2006. A copy of the April 26, 2006 brief accompanies the petition.

The original brief filed April 26, 2006, was not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[a] postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that an appeal brief was timely filed in the Patent and Trademark Office but not matched with the application file.

Petitioner has established the an appeal brief was timely filed April 26, 2006.

Technology Center Art Unit 3643 will be informed of the instant decision and the examiner will review the appeal brief in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

David J. Hill
Chambliss, Bahner & Stophel, P.C.
Two Union Square
1000 Tallan Building
Chattanooga TN 37402

COPY MAILED
SEP 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Trees	:	
Application No. 10/695,117	:	DECISION ON PETITION
Filed: October 28, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1331300-0303	:	

This is a decision on the petition, filed May 30, 2006 (certificate of mailing date May 23, 2006), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 28, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 28, 2006 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 3764 for examination in due course.

Shirene Willis Brantley

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.
10/695,117	10/28/2003	Darin Trees	1331300-0303

CONFIRMATION NO. 6098

David J. Hill
Chambliss, Bahner & Stophel, P.C.
Two Union Square
1000 Tallan Building
Chattanooga, TN 37402

Date Mailed: 09/15/2006

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 12/28/2006.

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".

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 03, 2008

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/695118 Patent No.: 7231096 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: Approved, changes not affecting scope.

/Brian P. Werner/ SPE 2624

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NETWORK APPLIANCE/BLAKELY
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

COPY MAILED

SEP 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Jeff Cuppett, et al.	:	
Application No. 10/695,141	:	DECISION ON PETITION
Filed: October 27, 2003	:	TO WITHDRAW
Attorney Docket No. 5693P227	:	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 27, 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 Jordan M. Becker on behalf of all attorneys of record who are associated with customer No. 48102.

All attorneys/agents associated with the Customer Number 48102 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: NETWORK APPLIANCE, INC.
495 EAST JAVA DRIVE
SUNNYVALE, CA 94089

cc: MR. LELAND WEISNER
WEISNER & ASSOCIATES
366 CAMBRIDGE AVENUE
PALO ALTO, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga, CA 95070

Mail Date: 04/21/2010

Applicant	: Stephen C. Porter	: DECISION ON REQUEST FOR
Patent Number	: 7645292	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/695,151	: 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 **714** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : ~~4/31/06~~ 12/11/07

TO SPE OF : ART UNIT 1753

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/695152 Patent No: 6824662 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: petition is granted

SPE

1795
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

ARENT FOX LLP
1675 BROADWAY
NEW YORK, NY 10019

COPY MAILED

NOV 21 2007

OFFICE OF PETITIONS

In re Application of
Denis Francois Hochstrasser et al
Application No. ~~10/695,195~~ **10/695,194**
Filed: October 28, 2003
Attorney Docket No. A36054-PCT-USA-A
072874.0

DECISION ON PETITION

This is a decision on the petition, filed June 8, 2007, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of September 11, 2006, which set a (3) month shortened statutory period for reply. One-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, a reply was due on or before January 11, 2007.

Petitioner states a response was submitted via EFS on January 11, 2007, which included the amendment. Petitioner has submitted a copy of the amendment, which would have rendered the reply timely if received.

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 11, 2006 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been EFS on January 11, 2007.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. This application is being referred to Technology Center AU 1600 for further processing.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

NOV 30 2007

OFFICE OF PETITIONS

ARENT FOX LLP
1675 BROADWAY
NEW YORK, NY 10019

In re Application of Denis Francois Hochstrasser et al Application No. 10/695,194 Filed: October 28, 2003 Attorney Docket No. A36054-PCT-USA-A 072874.0	: : : : :	DECISION ON PETITION

CORRECTED DECISION

This is a decision on the petition, filed June 8, 2007, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of September 11, 2006, which set a (3) month shortened statutory period for reply. One-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, a reply was due on or before January 11, 2007.

Petitioner states a response was submitted via EFS on January 11, 2007, which included the amendment. Petitioner has submitted a copy of the amendment, which would have rendered the reply timely if received.

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 11, 2006 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been EFS on January 11, 2007.

The decision mailed November 21, 2007 is hereby vacated as of the mail date of this decision.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. This application is being referred to Technology Center AU 1600 for further processing.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Andrew Valencia	: DECISION ON REQUEST FOR
Patent Number	: 7630393	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/695,199	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **880** 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

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

COPY MAILED

OCT 1 9 2004

OFFICE OF PETITIONS

In re Application of
Kenneth A. Jansen
Application No. 10/695,202
Filed: October 28, 2003
Attorney Docket No. 200302155-2

: DECISION GRANTING PETITION

This is a decision on the petition filed September 17, 2004, under 37 CFR 1.53, in response to the Notice of Incomplete Nonprovisional Application mailed August 23, 2004, requesting that the above identified application be accorded a filing date of October 28, 2003.

On October 28, 2003, the application was filed.

On August 23, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, on September 17, 2004 the present petition, and seven (7) sheets of drawings were filed. Petitioners argue that drawings were filed with the other application papers on October 28, 2003. In support of the petition, a copy of petitioner's postcard receipt which shows an official USPTO date-stamp of October 28, 2003, and the above-identified application number, and acknowledges receipt of, *inter alia*, drawings, was supplied with the present petition. Petitioner requests that the application, including 7 sheets of drawings, be accorded a filing date of October 28, 2003.

Upon review of the record, no sheets of drawings deposited on October 28, 2003, have been located among the application papers. However, the evidence is convincing that the application papers deposited on October 28, 2003, included drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the seven sheets of drawings, was complete on filing and entitled to a filing date of October 28 2003.

In view of the above, the petition is **GRANTED**.

The Notice of Incomplete Nonprovisional Application mailed August 23, 2004, is withdrawn. Therefore, no petition fees are due and none will be charged.

The application is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of October 28, 2003, using the application papers filed on October 28, 2003 and the seven (7) sheets of drawings supplied on September 17, 2004.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

McCormick, Paulding & Huber LLP
CityPlace II
185 Asylum Street
Hartford, CT 06103

COPY MAILED

MAR 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Hara et al.	:	
Application No. 10/695,214	:	
Filed: October 28, 2003	:	ON PETITION
Attorney Docket No. 6872-0001-1	:	

This is a decision on the Petition to Claim Benefit Under 35 U.S.C. § 119(e) of Prior Filed Provisional Applications (37 CFR 1.78(a)(6)), filed February 6, 2006, to accept an unintentionally delayed claim for the benefit of the prior filed provisional applications set forth in the Supplemental Application Data Sheet filed herewith.

This Petition is hereby **dismissed**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on October 28, 2003. A review of the wording of the claim for priority in the Application Data Sheet ("ADS") and petition reveals that the wording is improper in that this application cannot directly claim benefit to the provisional applications, since it was filed more than twelve months from the filing date

the filing date of the provisional applications. However, it would be appropriate to claim benefit of the provisional applications through intermediate application no. 10/327,300, since that application was filed within twelve months of the filing date of the provisional applications.

In view of the above, either an amendment to the first line of the specification or a Supplemental ADS correcting the priority claim to the provisional applications, along with a renewed petition under 37 CFR 1.78(a)(6) is required.

Also note that a nonprovisional application does not have to be co-pending with the provisional, but must be filed within twelve months thereof; have at least one inventor in common and have had the filing fee paid.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Attorney Derek L. Woods at (571) 272-3232.

Frances Hicks

Frances Hicks
Lead Paralegal
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

McCormick, Paulding & Huber LLP
CityPlace II
185 Asylum Street
Hartford, CT 06103

COPY MAILED

AUG 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Hara et al.	:	
Application No. 10/695,214	:	
Filed: October 28, 2003	:	ON PETITION
Attorney Docket No. 6872-0001-1	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 14, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional applications set forth in the amendment and Application Data Sheet ("ADS") filed with the petition.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional.

The Director may require additional information where there is a question whether the delay was unintentional.

All 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 applications 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 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. §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 provisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1745 for appropriate action on the amendment submitted April 14, 2006, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications set forth in the amendment and ADS.

Frances Hicks

Frances 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
10/695,214	10/28/2003	1745	513	6872-0001-1	5	27	2

CONFIRMATION NO. 4508

CORRECTED FILING RECEIPT

OC000000019608682

McCormick, Paulding & Huber LLP
CityPlace II
185 Asylum Street
Hartford, CT 06103

Date Mailed: 07/14/2006

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)

Hiroaki S. Hara, West Hartford, CT;
Xing Dong, Willimantic, CT;

Power of Attorney:

Donald Huber--18686
William Crutcher--19279
Chester Flavin--22655
John Hilton--22965
Arthur Dionne--23093
John Linderman--24420
Frederick Haesche--24529
Charles Sohl--27051
James Grogan--31961
Andrea Walsh--34988

Domestic Priority data as claimed by applicant

This application is a CIP of 10/327,300 12/20/2002
which claims benefit of 60/412,755 09/23/2002
and claims benefit of 60/390,174 06/19/2002
and claims benefit of 60/343,700 12/27/2001

Foreign Applications

If Required, Foreign Filing License Granted: 02/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/695,214

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Aerogel and metallic composites

Preliminary Class

429

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier

license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 090304

DUANE MORRIS LLP
100 COLLEGE ROAD WEST, SUITE 100
PRINCETON, NJ 08540

SEP 16 2004

In re Application of:	:	
DAMON GERMANTON	:	
Serial No.: 10/695,216	:	DECISION ON REQUEST TO WITHDRAW
Filed: August 06, 2001	:	FROM RECORD
Attorney Docket No.: **N0648-00309**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 02, 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. There is no outstanding Office action at this time.

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 Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: PLEVY & HOWARD
600 NORTH EASTON ROAD
WILLOW GROVE, PA 19090

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/12/04

W.L. Gore & Associates, Inc.
551 Paper Mill Road
P.O. Box 9206
Newark, DE 19714-9206

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/695222 received on 03/19/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King
Signature of Reviewer, Office of Pre-Grant Publication

OIPE IAP67
JUN 13 2006
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the **PATENT** of:

Sugar et al.

Patent No.: 6,965,762

Issued: November 15, 2005

Appln. No.: 10/695,229

Filed: October 28, 2003

For: SYSTEM AND METHOD FOR ANTENNA DIVERSITY USING JOINT MAXIMAL RATIO COMBINING

Our File: COG-2-0974.02US

Date: June 8, 2006

OK to enter CRS 7/14/07

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
Certificate of Corrections Branch
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Certificate of Correction under 35 U.S.C. §255 and 37 C.F.R. §1.323 is requested for U.S. Patent No. 6,965,762. Correction of the following typographical errors is requested.

IN THE ABSTRACT

At line 6, after the word "each", insert --of--.

At line 10, after the word "for", delete "the".

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/23/06

TO SPE OF : ART UNIT 2600

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/695229** Patent No.: **6965762**

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: _____

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2618
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED

JUN 08 2005

OFFICE OF PETITIONS

In re Application of	:	
Lee D. Whetsel	:	
Application No. 10/695,241	:	DECISION GRANTING PETITION
Filed: October 28, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. TI-26901.3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of July 14, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2829.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Skadden, Arps, Slate, Meagher & Flom LLP
Attn: Jan Steele
525 University Avenue, Suite 1100
Palo Alto, CA 94301

MAILED

SEP 0 3 2004

Technology Center 2100

In re Application of:
Paul C. KOCHER, et al.
Application No. 10/695,256
Filed: October 27, 2003
For: USING SMARTCARDS OR OTHER CRYPTOGRAPHIC MODULES FOR ENABLING CONNECTED DEVICES TO ACCESS ENCRYPTED AUDIO AND VISUAL CONTENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 7, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The signer of the petition, Jeffrey Brill, is not an attorney or agent of record; therefore he is not authorized to act on behalf of the attorney(s) of record. Accordingly, the request is **DENIED.**

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

UNITED STATES 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. WESTLAND BLVD. STE 120
WESTLAKE VILLAGE, CA 91362

COPY MAILED

MAY 2 4 2007

OFFICE OF PETITIONS

In re Application of :
Yuichiro ITAKURA, et al :
Application No. 10/695, 286 : DECISION ON PETITION
Filed: October 28, 2003 : TO WITHDRAW
Attorney Docket No. U000-P03191US : 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 27, 2005.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, application has been transferred to a different firm at the owner's instruction, does not meet any of the conditions set forth in 37 CFR 10.40.

There are no pending Office actions at the present time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: JAIWEL HUANG
J.C. PATENTS, INC.
4 VENTURE
SUITE 250
IRVINE, CA 92618

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
10/695,312	10/28/2003	Bindu Rama Rao	14321US02

CONFIRMATION NO.
4163

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c) for express abandonment to avoid publication of the above-identified application, for which a faxed copy of the original petition was received on April I5, 2004.

The petition is dismissed.

The express abandonment will **not** be recognized because the petition under 37 CFR 1.138(c) was not received in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DEAN D SMALL
THE SMALL PATENT LAW GROUP LLP
611 OLIVE STREET SUITE 1611
ST LOUIS MO 63101

COPY MAILED

NOV 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Milke-Rojo, et al.	:	
Application No. 10/695,318	:	ON PETITION
Filed: October 28, 2003	:	
Attorney Docket No. 130699	:	

This is a decision on the petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed March 7, 2007.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed October 2, 2006. This notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on January 3, 2007. The Office mailed a Notice of Abandonment on January 29, 2007.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue fee.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

James Henes
Central Park of Lisle
4225 Naperville Road, S/600
Lisle, IL 60532

COPY MAILED

SEP 29 2006

OFFICE OF PETITIONS

In re Application of Vaidyanathan et al. :
Application No. 10/695,319 : Decision on Petition
Filing Date: October 28, 2003 :
Attorney Docket No. 39,819-00 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed January 31, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 1, 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.

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. 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.

The Office of Publications will be informed of the instant decision and the application will be issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EDWARD S. SHERMAN, ESQ.
3554 ROUND BARN BLVD.
SUITE 303
SANTA ROSA CA 95403

COPY MAILED

NOV 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Piotr Gryciuk, et al.	:	
Application No. 10/695,321	:	DECISION ON PETITION
Filed: October 27, 2006	:	TO WITHDRAW
Attorney Docket No. 142.01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 14, 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 Edward S. Sherman on behalf of all attorneys of record who are associated with customer No. 30480.

All attorneys/agents associated with the Customer Number 30480 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 power of attorney filed on October 27, 2003 does not include a proper chain of title or the reel and frame number on the assignment.

There is an outstanding Office action mailed July 3, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Piotr Gryciuk
C/O US Machining Inc.
1940 Lafayette Unit F
Santa Clara, CA 95050

cc: HPCQ Partnership
C/O US Machining
1940 Lafayette Unit F
Santa Clara, CA 95050

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
10/695,321	10/27/2003	Piotr Gryciuk	142.01

CONFIRMATION NO. 6047

OC000000021236200

OC000000021236200

30480
EDWARD S. SHERMAN, ESQ.
3554 ROUND BARN BLVD.
SUITE 303
SANTA ROSA, CA 95403

Date Mailed: 11/15/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/14/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Office of Counsel Code OC4
Naval Surface Warfare Center
Indian Head Division
101 Strauss Ave., Bldg. D-31
Indian Head, MD 20640-5035

COPY MAILED

MAR 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Jouet et al.	:	
Application No. 10/695,349	:	DECISION
Filed: November 10, 2004	:	ON PETITION
Attorney Docket No. 84,777	:	
	:	

This is a decision on the "PETITION UNDER 37 CFR 1.182" filed November 10, 2004, requesting that the above-identified application be accorded a filing date of November 10, 2004, the date of later submission of previously omitted drawings. (The Office originally received a petition under 1.182 on October 25, 2004. However, neither the drawings nor the declaration required for according a later filing date were received in the Office on October 25, 2004).

Application papers in the above-identified application were deposited on October 29, 2003. However, on October 18, 2004, the Initial Patent Examination Division mailed applicants a "Notice of Omitted Items in a Nonprovisional Application," stating that the application had been accorded a filing date of October 29, 2003, but advising applicants that a drawing of Figures 3-4B described in the specification appeared to have been omitted.

In response, applicants timely filed the instant petition under § 1.182 to accept the missing Figures 3, 4A and 4B filed

herewith and to establish this filing date as the filing date of the application. The petition included a declaration in compliance with 37 CFR 1.63 and 1.64 referring to the drawings, and a drawing sheet containing figures 3, 4A and 4B.

In view thereof, the petition is **GRANTED**.

The application is being returned to the Office of Initial Patent Examination **for according of a filing date of November 10, 2004**, using the application papers received in the Office on October 29, 2003, including one sheet of drawings containing figures 1A, 1B, 1C and 2, and the one sheet of drawings containing figures 3, 4A and 4B received on November 10, 2004.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
NOV 13 2006
OFFICE OF PETITIONS

EDWARD W. BULCHIS, ESQ.
DORSEY & WHITNEY LLP
SUITE 3400
1420 FIFTH AVENUE
SEATTLE WA 98101

In re Application of	:	
Ralph James	:	
Application No. 10/695,383	:	ON PETITION
Filed: October 27, 2003	:	
Attorney Docket No. 501328.01(30313/US)	:	

This is a decision on the petition, filed November 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 August 29, 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 2188 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Date: 3-7-06

Patent No.: 6,856,469
Inventor: Yoneyama, et. al.
Issued: February 15, 2005
For: LENS DRIVING DEVICE
Docket No: 81868.0105

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 Rules 1.322 and 1.323.

Respecting the alleged error of the inventor's names and addresses, the inventor's names and addresses are printed in accordance with the Declaration submitted at the time of filing the application. Therefore, no correction is in order here under Rules 1.322 or 1.323.

In view of the foregoing, your request is hereby denied.

A petition under C.F.R. 1.82 is required to correct the alleged error in an inventor's names and addresses, since the inventor's names and addresses is printed in accordance with the Declaration. Since the was the result of applicant's failure to comply with requirements that the complete and correct names and addresses be indicated, no correction is in order here under the provisions of Rule 1.322 or 1.323, unless a petition is granted.

Any petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or Fax number.

Commisssioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

A certificate of correction will issue to correct the remaining errors noted your request.

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch. Any response must be filed within a two-month period.

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 124 or Ext. 102

Thomas W. Humphrey
Wood, Herron & Evans, LLP
2700 Carew tower
441 vine Street
Cincinnati, OH 45202-2917

ej

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

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Avram Scheiner	: DECISION ON REQUEST FOR
Patent Number	: 7572226	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/695,430	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1210** 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

October 3, 2007

Bradley A Forrest
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P. O. Box 2938
Minneapolis, MN 55402

Patent No.: 7,053,439 B2
Application No.: 10/695,432
Inventor(s): Edwin Kan, et al.
Issued: May 30, 2006
Title: **CHEMORECEPTIVE SEMICONDUCTOR STRUCTURE**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A certificate of correction will be issued to correct the remaining errors mentioned in your request.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

OIPE IAP7
OCT 14 2008
PATENT & TRADEMARK OFFICE

VT

10/695432

C ofc

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Edwin C. Kan et al.

Patent No.: 7,053,439

Issue Date: May 30, 2006

Title: CHEMORECEPTIVE SEMICONDUCTOR STRUCTURE

Examiner: Wilson, Allan R.

Group Art Unit: 2815

Docket No: 1153.078US1

Certificate
OCT 16 2008
of Correction

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: CERTIFICATE OF CORRECTION BRANCH

We are transmitting herewith the attached:

X Request for Certificate of Correction and Request Under 37 C.F.R. § 3.81(b) (2 pages).
X Certificate of Correction Form - PTO-1050 (in duplicate).
X Copy of the Notice of Recordation of Assignment Documents (3 pgs.).
X Authorization to charge Deposit Account No. 19-0743 in the amount of $130.00 pursuant 37 C.F.R. 1.17(i) to cover Petition Fee.
X Authorization to charge Deposit Account No. 19-0743 in the amount of $100.00 pursuant 37 C.F.R. 1.20(a)
X A return postcard.

Please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
Customer No: 21186

By: [signature]
Name: Bradley A. Forrest
Reg. No. 30,837

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria VA 22313-1450, on this 10th day of October 2008.

Dawn M. Poole
Name

Dawn M. Poole
Signature

10/14/2008 SSANDAR1 00000018 190743 7053439

01 FC:1464 130.00 DA

IN UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.:	7,053,439	Docket No:	1153.078US1
Issue Date:	May 30, 2006	Patentee:	Edwin C. Kan et al.
Customer No.:	21186	Confirmation No.:	4472
Title	CHEMORECEPTIVE SEMICONDUCTOR STRUCTURE		

REQUEST FOR CERTIFICATE OF CORRECTION
AND REQUEST UNDER 37 C.F.R. § 3.81(b) TO CORRECT ASSIGNEE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: CERTIFICATE OF CORRECTION BRANCH

Applicant respectfully requests that the assignment data on the face page of U.S. Patent No. 7,053,439 be corrected to state the name of the following assignee. The assignment recorded on August 27, 2004 at reel 015089, frames 0629 assigns Edwin Kan and Bradley A. Minch interest in the above-referenced patent application to Cornell Research Foundation, Inc. (Ithaca, New York). The above information was erroneously not included on the Issue Fee Transmittal.

It is requested that a Certificate of Correction be issued correcting printing errors appearing in the above-identified United States patent. Two copies of the text of the Certificate in the suggested form are enclosed.

Pursuant to 1.20(a), please charge Deposit Account No. 19-0743 in the amount of $100.00 to cover the Certificate of Correction fee.

Pursuant to 1.17(i), please charge Deposit Account No. 19-0743 in the amount of $130.00 to cover Petition Fee

10/14/2008 SSANDAR1 00000018 7053439
02 FC:1811 100.00 DA

OIPE IAP7
OCT 14 2008
PATENT & TRADEMARK OFFICE

Issuance of the Certificate of Correction would neither expand nor contract the scope of the claims as properly allowed, and re-examination is not required.

The Examiner is authorized to charge any additional fees or credit overpayment to Deposit Account No.19-0743.

Respectfully Submitted

EDWIN KAN ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6900

Date : 10-9-2008

By: _____
Bradley A. Forrest
Reg. No: 30,837

CERTIFICATE UNDER 37 CFR § 1.8: The undersigned hereby certifies that this correspondence is being 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 this 10th day of October 2008

Dawn M. Rowe
Name

Dawn M. Rowe
Signature

[illegible] 150743 7052439
[illegible] 8211 100.00 DA

PTO/SB/44 (02-01)
PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,053,439 Page (1) of 1

DATED : May 30, 2006

INVENTOR(S) : Bradley A. Minch, Edwin C. Kan

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the front page of the patent, please insert -- Section [73], Assignee: Cornell Research Foundation, Inc., Ithaca, New York --

MAILING ADDRESS OF SENDER: PATENT NO. 7,053,439

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
Minneapolis, MN 55402

No. of additional copies

Atty Docket No: 1153.078US1

PTO/SB/44 (02-01)
PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,053,439

DATED : May 30, 2006

INVENTOR(S) : Bradley A. Minch, Edwin C. Kan

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the front page of the patent, please insert -- Section [73], Assignee: Cornell Research Foundation, Inc., Ithaca, New York --

MAILING ADDRESS OF SENDER:

PATENT NO. _____7,053,439_____

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
Minneapolis, MN 55402

No. of additional copies

Atty Docket No: 1153.078US1

OIPE IAP7
OCT 14 2008
PATENT & TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

700110502A

SEPTEMBER 08, 2004

PTAS

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH PA
BRADLEY A. FORREST
P.O. BOX 2938
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 08/27/2004 REEL/FRAME: 015089/0629
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).
DOCKET NUMBER: 1153.078US1

ASSIGNOR:
KAN. EDWIN DOC DATE: 08/25/2004

ASSIGNOR:
MINCH, BRADLEY A. DOC DATE: 08/25/2004

ASSIGNEE:
CORNELL RESEARCH FOUNDATION, INC.
20 THORNWOOD DRIVE
SUITE 105
ITHACA, NEW YORK 14850

SERIAL NUMBER: 10695432 FILING DATE: 10/28/2003
PATENT NUMBER: ISSUE DATE:
TITLE: CHEMORECEPTIVE SEMICONDUCTOR STRUCTURE

015089/0629 PAGE 2

KHEN NGUYEN, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

OIPE IAP7 OCT 14 2008 PATENT & TRADEMARK OFFICE

08/27/2004
700110502

RECORDATION FORM COVER SHEET
PATENTS ONLY

Atty Ref/Docket No.: 1153.078US1

Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Edwin Kan and Bradley A. Minch

Additional name(s) of conveying party(ies) attached?
[ ]Yes [X]No

3. Nature of conveyance:

[X] Assignment [ ] Merger
[ ] Security Agreement [ ] Change of Name
[ ] Other

Execution Date: August 25, 2004, August 25, 2004

2. Name and address of receiving party(ies):

Name: Cornell Research Foundation, Inc.

Street Address: 20 Thornwood Drive
Suite 105

City: Ithaca State: NY Zip: 14850

Additional name(s) & address(es) attached? [ ]Yes [X]No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)

Serial No. 10/695,432, filed October 28, 2003

B. Patent No.(s)

Additional numbers attached? [ ]Yes [X]No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Bradley A. Forrest

Address:
Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41):$ 40.00

[ ]Enclosed
[X] Authorized to be charged to deposit account

8. Please charge any additional fees or credit any over payments to our Deposit account number:19-0743

CH $40.00 190743 10695432

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Bradley A. Forrest/Reg. No. 30,837
Name of Person Signing

Signature 8/27/2004
Date

Total number of pages including cover sheet: 4

Mail documents to be recorded with required cover sheet information to:

Mail Stop Assignment Recordation Services
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

COPY MAILED

NOV 1 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Akira Maruyama et al	:	
Application No. 10/695,440	:	DECISION GRANTING FILING
Filed: October 29, 2003	:	DATE OF OCTOBER 29, 2003
Attorney Docket No. Q78195	:	

This is a decision on the petition filed July 12, 2004, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of October 29, 2003.

The petition is **granted**.

The application was deposited on October 29, 2003. However, on May 11, 2004, the Office of Initial Patent Examination Division mailed a "Notice To File Missing Parts Of Nonprovisional Application," stating that page nine (9) of the specification was omitted from the application on filing.

In response, on July 12, 2004, the instant petition and a copy of the specification which include page nine (9) was submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of forty-four (44) pages of the specification and one (1) sheet of the abstract on October 29, 2004. A review of the application file does not show the presence of page nine (9) of the specification.

MPEP 503 states that "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." Accordingly, since the evidence supports the fact that page nine (9) of the specification was in fact present on filing, the Notice mailed May 11, 2004 is vacated.

Since page nine (9) of the specification cannot be located in the Office, the copy of page nine (9) of the specification supplied on July 12, 2004 will be used for processing and examination purposes.

The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 19-4880.

This matter is being referred to the Office of Initial Patent Examination Division for processing with a filing date of **October 29, 2003**, and using page nine (9) of the specification supplied on July 12, 2004, and with an indication that page nine (9) was present on filing, and for mailing of a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to Karen Creasy at (571) 272-3208.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

MCGINN INTELLECTUAL
PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

COPY MAILED

MAY 07 2007

OFFICE OF PETITIONS

In re Application of :
Kaname Joushita : ON PETITION
Application No. 10/695,456 :
Filed: October 29, 2003 :
Atty Docket No. K06-163174M/AT:

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. 1.181(a)" filed February 28, 2007.

The above-identified application became abandoned for failure to file corrected drawings as required by and within the three-month period set in, the Notice of Allowability mailed October 18, 2006. The above-identified application became abandoned on January 19, 2007. A courtesy Notice of Abandonment was mailed on February 21, 2007.

In response, applicant filed the instant petition, asserting that corrected drawings were timely filed on November 9, 2006. In support thereof, petitioner submitted a copy of their return postcard and of the response.

A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on November 9, 2006; 2) it specifically identifies the items being filed, including "Sub of Replacement Formal Drawings" and 3) it lacks any

annotation of nonreceipt of any item denoted on the postcard. The evidence shows that replacement formal drawings should be considered timely filed on November 9, 2006.

Accordingly, the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The Office of Patent Publication has been advised of this decision. The application file is, thereby, forwarded to the Publishing Division's technical support staff to withdraw the holding of abandonment and for consideration of the corrected drawings re-supplied on petition filed February 28, 2007.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

COPY MAILED

APR 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Abbas Amirichimeh et al.	:	
Application No. 10/695,458	:	DECISION GRANTING PETITION
Filed: October 29, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1875.3640002/JTH/TAD	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 18, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 26, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 FIFTH AVENUE
SEATTLE, WA 98101

MAIL

JUL 22 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Ed Millet
Application No. 10/695472
Filed: October 27, 2003
For: DIRECTIONAL MOTION ESTIMATOR

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as Attorney/Agent and change of address filed on May 05, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All Attorneys/agents associate with Customer Number 26389 are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

Cc: ADVANCED TECHNOGY VIDEO, INC.
15110 NE 95TH STREET
REDMOND, WA 98502

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
10/695,479	10/28/2003	2812	954	856063.754	7	23	3

CONFIRMATION NO. 5220

UPDATED FILING RECEIPT

OC000000012582951

38106
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 6300
SEATTLE, WA 98104-7092

Date Mailed: 05/10/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Danilo Mascolo, Ercolano, ITALY;
Rossana Scaldaferri, Sapri, ITALY;
Teresa Napolitano, Cimitile, ITALY;
Valeria Casuscelli, Arzano, ITALY;
Luigi Occhipinti, Catania, ITALY;

Assignment For Published Patent Application

STMicroelectronics S.r.l., Agrate Brianza, ITALY;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/29/2004

Projected Publication Date: 04/28/2005

Non-Publication Request: No

Early Publication Request: No

Title

Single electron transistor manufacturing method by electro-migration of metallic nanoclusters

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 6300
SEATTLE, WA 98104-7092

COPY MAILED
JUN 1 8 2004
OFFICE OF PETITIONS

In re Application of	:	
Mascolo, et al.	:	
Application No. 10/695,479	:	ON PETITION
Filed: October 28, 2003	:	
Attorney Docket No. 856063.754	:	

This is a decision on the petition filed April 29, 2004, requesting that the above-identified application be accorded a filing date of October 28, 2003, instead of October 27, 2003.

The United States Patent and Trademark Office records indicate that the presently accorded filing date of the above-identified application is October 28, 2003. Therefore, the petition involves a moot issue.

Accordingly, the petition is dismissed.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-15-05

TO SPE OF : ART UNIT 3644

SUBJECT : Request for Certificate of Correction on Patent No.: 6948685

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

EVA JAMES

Should these Claims be deleted in part Thanks

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:
Examiner Amend not entered
Correction proper JB

SPE

3644
Art Unit

10 DEC 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Ronald Abramson
HUGHES HUBBARD & REED LLP
One Battery Park Plaza
New York, NY 10004-1482

In re Application of SAVAGE, Colin U.S. Application No.: 10/695,507 Filing Date: 28 October 2003 Attorney Docket No.: 14137.0001 For: SYSTEM FOR PROVIDING SESSION-BASED NETWORK PRIVACY, PRIVATE, PERSISTENT STORAGE, AND DISCRETIONARY ACCESS CONTROL . . .	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

This decision is in response to applicants' petition filed 28 October 2003 to revive international application PCT/US02/08275 which was abandoned under 35 U.S.C. 371(d) and is hereby **GRANTED** as to the present U.S. national application as follows:

International application PCT/US02/08275 became abandoned as to the United States of America for failure to pay the basic national fee by 24 October 2003. The filing of the present continuing application under 35 U.S.C. 111(a) is accepted as an appropriate response under 37 CFR 1.137(b). The $665.00 petition to revive fee for a small entity has been paid. Applicants' statement satisfies the requirement of 37 CFR 1.137(b)(3).

International application PCT/US02/08275 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/695,507.

This application is being forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a) with a filing date of 28 October 2003.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HUGHES HUBBARD & REED LLP
ONE BATTERY PARK PLAZA
NEW YORK, NY 10004

COPY MAILED

APR 29 2008

OFFICE OF PETITIONS

In re Application of :
Savage et al. :
Application No. 10/695,507 :
Filed: October 28, 2003 :
Attorney Docket No. 14137.0001 :
For: System for Providing Session-Based :
Network Privacy, Private, Persistent :
Storage, and Discretionary Access Control :
For Sharing Private Data :

Decision Refusing Status
Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed March 29, 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)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refused to sign the declaration after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or declaration executed by the available joint inventor(s),
(3) the required petition fee, and
(4) the last known address of the non-signing inventor(s).

The instant petition fails to satisfy item (2) above.

The declaration submitted by petitioner is directed to the International Application No. PCT/US02/08275. Petitioner has not submitted a copy of a declaration directed to the instant application.

37 CFR 1.63(d) allows an applicant to file a copy of a declaration from a prior nonprovisional application in a continuation or divisional nonprovisional application. However, 37 CFR 1.63(d) does not permit one to file a copy of a declaration form a prior international application.

Petitioner should file a request for reconsideration and a proper declaration. If inventor Savage or Petro is unavailable to sign the new declaration, petitioner may seek to have the declaration accepted without his signature pursuant to 37 CFR 1.47(a). If both Savage and Petro are unavailable, petitioner may seek to have the declaration accepted without their signatures pursuant to 37 CFR 1.47(b). The request for reconsideration, whether under 37 CFR 1.47(a) or 37 CFR 1.47(b), need not be accompanied by a new petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HUGHES HUBBARD & REED LLP
ONE BATTERY PARK PLAZA
NEW YORK, NY 10004

COPY MAILED
MAY 27 2008
OFFICE OF PETITIONS

In re Application of :
Savage et al. :
Application No. 10/695,507 :
Filed: October 28, 2003 :
Attorney Docket No. 14137.0001 :
For: System for Providing Session-Based :
Network Privacy, Private, Persistent :
Storage, and Discretionary Access Control :
For Sharing Private Data :

Decision According Status
Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed May 15, 2008.

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.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the last known addresses provided by petitioner. Notice of the filing of this application will also be published in the Official Gazette.

The Office of Data Management will be informed of the instant decision and the application will be issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

MAILED
APR 08 2010
OFFICE OF PETITIONS

In re Application of
Robert T. Love, et al.
Application No. 10/695,513
Filed: October 28, 2003
Attorney Docket No. CE10354R

ON PETITION

This is a decision in response to the petition, filed January 4, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 2, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 3, 2009. A Notice of Abandonment was mailed on July 15, 2009. On January 4, 2010, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2618 for appropriate action by the Examiner in the normal course of business on the response filed January 4, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BIOMERIEUX, INC.
PATENT DEPARTMENT
100 RODOLPHE STREET
DURHAM NC 27712

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Patent No. 7,429,355
Issued: September 30, 2008
Application No. 10/695,517
Filed: October 28, 2003
Attorney Docket No. 01051

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705 (b)-(d)" filed November 13, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from eight hundred ninety-two (892) days to one thousand three hundred sixty-one (1361) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On September 30, 2008, the above-identified application matured into US Patent No. 7,429,355 with a patent term adjustment of 892 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to a patent term adjustment of 1361 days (702 (Three Years Delay) plus 902 (Examination delay) reduced by 233 (overlap) minus 10 (applicant delay).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In

other words, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 10 days for applicant delay. Patentees argue that the total period of Office delay is the sum of the period of Three Years Delay (702 days) and the period of Examination Delay (902 days) to the extent that these periods of delay are not overlapping. Patentees contend that the periods of examination delay and the Three Years Delay overlap by 233 days. As such, patentees assert entitlement to a patent term adjustment of 1361 days (702 + 902 reduced by 233 overlap - 10 for applicant delay).

At the outset, the Office notes that as of the issuance of the patent, the application was pending three years and 703 (not 702) days after its filing date (October 29, 2006 to September 30, 2008). The Office agrees that the action detailed above was not taken within the specified time frame, and thus, a period of adjustment under 37 CFR 1.702(a)(1) of 902 days was entered. At issue is whether patentees should accrue 703 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 902 days for the Office failing to take a certain action within a specified time frame (or examination delay).

The Office contends that 703 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods

> excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) to the extent

> that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, October 28, 2003, to the date the patent issued on September 30, 2008. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). Prior to the issuance of the patent, 902 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 703 days for Office delay in issuing the patent overlap with the 902 days of Examination delay. During that time, the issuance of the patent was delayed by 902 days, not 902 + 703 days. The Office experienced 902 days of examination delay. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 902 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 703 days. The Office did not delay 902 days and then an additional 703 days. Entry of both periods is not warranted. Thus, 902 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 703 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Christina Tartera Donnell for

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070206

DATE : February 6, 2007

TO SPE OF : ART UNIT 2114

SUBJECT : Request for Certificate of Correction on Patent No.: 7,047,448

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:

None

DIEU-MINH LE
PRIMARY EXAMINER

SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER

SPE: Scott Baderman **Art Unit** 2114

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 7,047,448

APPLICATION NO.: 10/695,524

DATED : May 16, 2006

INVENTOR(S) : Harri Okkonen, et al.

It is certified that error appears or errors appear in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

(75) Inventors, please delete "Okonnen" and insert -- Okkonen-- ;

Column 12, line 50, please delete "device" and insert-- method --;

Column 12, line 56, please delete "device" and insert – method --;

Column 13, line 11, after the phrase initiating at least one of, please delete the word "a" .

SNL 02/06/07 O.K.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

McAndrews, Held & Malloy
500 West Madison Street, 34th Floor
Chicago, IL 60661

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

JAN 1 1 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JAN 28 2005

OFFICE OF PETITIONS

MYERS BIGEL SIBLEY & SAJOVEC
P.O. BOX 37428
RALEIGH NC 27627

In re Application of	:
Steven L. Worm et al	:DECISION GRANTING FILING
Application No. 10/695,544	:DATE OF October 28, 2003
Filed: October 28, 2003	:
Attorney Docket No. 5697-39DV	:

This is a decision on the petition under 37 CFR 1.10(c), filed February 23, 2004, and supplemented on December 21, 2004, requesting that the above-identified application be accorded a filing date of October 28, 2003, rather than the presently accorded date of October 29, 2003.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on October 28, 2003 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of Express Mail Label No. EV318416404US. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal." Additionally, a copy of the USPS Intranet Track Confirmation verifies the acceptance date as October 28, 2003 in Raleigh NC, for Express Mail Label No. EV318416404US.

In view of the above, it is concluded that the application was deposited as "Express Mail" with the USPS on October 28, 2003.

The petition is **granted**.

The application file is being referred to the Office of Initial Patent Examination for processing with a filing date of **October 28, 2003,** and for the mailing of a corrected Filing Receipt.

Telephone inquiries specific to this decision on petition should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BASF CORPORATION
CARL-BOSCH-STRASSE 38
LUDWIGSHAFEN D6705-6 DE GERMANY

COPY MAILED

JUN 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Stephen Barnes et al	:	
Application No. 10/695,546	:	DECISION GRANTING PETITION
Filed: October 28, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 200123-2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment;(2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of June 20, 2006, is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1634.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
PATRICIA A. MCDANIELS
26 DAVIS DRIVE
RESEARCH TRIANGLE PARK, NC 27709

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

BASF CORPORATION
CARL-BOSCH-STRASSE 38
LUDWIGSHAFEN, D67056
GERMANY

Mail Date: 04/21/2010

Applicant	: Stephen Barnes	: DECISION ON REQUEST FOR
Patent Number	: 7595177	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/695,546	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **922** 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

BIOMERIEUX, INC.
PATENT DEPARTMENT
100 RODOLPHE STREET
DURHAM NC 27712

COPY MAILED

JAN 2 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael J. Justin et al	:	
Application No. 10/695,550	:	DECISION GRANTING PETITION
Filed: October 28, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 01053	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 22, 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 December 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]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Fairhall appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Fairhall desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to 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.

---

[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.*

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1797 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
/Karen Creasy/
Petitions Examiner
Office of Petitions

cc:

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 SOUTH WACKER DRIVE, SUITE 3200
CHICAGO, IL 60606

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
10/695,553	10/28/2003	2818	1614	5649-1195	9	43	8

CONFIRMATION NO. 5476

CORRECTED FILING RECEIPT

OC000000012375644

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Date Mailed: 04/16/2004

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)

Young-Nam Hwang, Gyeonggi-do, KOREA, REPUBLIC OF;
Se-Ho Lee, Gyeonggi-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2002-67351 11/01/2002

If Required, Foreign Filing License Granted: 01/29/2004

Projected Publication Date: 05/06/2004

Non-Publication Request: No

Early Publication Request: No

Title

Phase changeable memory devices and methods of forming the same in which an upper electrode includes a tip that extends toward a lower electrode

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IP GROUP OF DLA PIPER US, LLP
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA, PA 19103

COPY MAILED

NOV 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Denis Barritault, et. al.	:	
Application No. 10/695,574	:	ON PETITION
Filed: October 28, 2003	:	
Attorney Docket No. 1003-DIV-01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on September 18, 2008, to revive the above-identified application.

The application became abandoned for failure to file a proper reply to the final Office action mailed March 17, 2008.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $405 filing fee; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed on September 18, 2008.

The application file is being referred to Technology Center Art Unit 1651, for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
Berwyn, PA 19312-1183

Mail Date: 04/21/2010

Applicant	: Scott A. Waldman	: DECISION ON REQUEST FOR
Patent Number	: 7598229	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/695,578	: 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 **702** 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

POWELL GOLDSTEIN LLP
ONE ATLANTIC CENTER
FOURTEENTH FLOOR 1201 WEST PEACHTREE STREET NW
ATLANTA, GA 30309-3488

COPY MAILED
NOV 17 2005
OFFICE OF PETITIONS

In re Application of
James M. Tranquilla
Application No. 10/695,589
Filed: October 28, 2003
Attorney Docket No.: 741805-1010

ON PETITION

This is a decision on the petition, filed November 16, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1742 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Thomas, Kayden, Horstemeyer & Risley, LLP
100 Galleria Parkway, NW
Suite 1750
Atlanta, GA 30339-5948

COPY MAILED

SEP 12 2006

OFFICE OF PETITIONS

In re Application of
Joseph Paul Jayachandran et al.
Application No. 10/695,591
Filed: October 28, 2003
Attorney Docket No. 62020-1580

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 7, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorney(s) and/or agent(s) associated with Customer Number 24504 have been revoked by the assignee of the patent application on July 10, 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 Terri Williams at 571-272-2991.

David Buccil
Petitions Examiner
Office of Petitions

cc: **The Webb Law Firm**
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219

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
11/192,771	07/29/2005	David John Maxwell	TC-04-19

CONFIRMATION NO. 7470

OC000000020372567

OC000000020372567

30349
JACKSON & CO., LLP
6114 LA SALLE AVENUE
SUITE 507
OAKLAND, CA 94611-2802

Date Mailed: 09/11/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2006.

- 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.

T. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/695,591	10/28/2003	Paul Jayachandran Joseph	62020-1560

CONFIRMATION NO. 5369

OC000000020372597

OC000000020372597

24504
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA, GA 30339-5948

Date Mailed: 09/11/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/10/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

T. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/695,591	10/28/2003	Paul Jayachandran Joseph	62020-1560

CONFIRMATION NO. 5369

OC000000020372622

OC000000020372622

The Webb Law Firm
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219

Date Mailed: 09/11/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/10/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

T. Williams

TERRI S WILLIAMS
OP (571) 272-2991

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Mark W. Morgan	: DECISION ON REQUEST FOR
Patent Number	: 7570108	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/695,604	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

RECEIVED
CENTRAL FAX CENTER
OCT 1 8 2004

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Ronald L. Strahan

Serial No.: 10/695,610

Filed: October 28, 2003

For: MOBILE GAS SEPARATOR SYSTEM AND METHOD FOR TREATING DIRTY GAS AT THE WELL SITE OF A STIMULATED WELL

Group No.: 1724

Examiner: Jason M. Greene

Att'y Dkt. No.: 7620-002

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 2/7/05

MAIL STOP PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL
BASED ON ENVIRONMENTAL ENHANCEMENT
AND ENERGY CONSERVATION
(37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02)

Applicant hereby petitions to make this application special. This petition is based on 37 C.F.R. §1.102(c), specifically, because the invention in this application will materially enhance the quality of the environment and/or materially contribute to the conservation of energy resources. Accompanying this petition is a Statement of Facts in Support of Petition to Make Special.

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. § 1.8(a)

I hereby certify that, on the date shown below, this correspondence is being sent by facsimile transmission to the centralized facsimile number at the United States Patent and Trademark Office at 703-872-9306.

Date: October 18, 2004

Mary M. Lee, Attorney for Applicant

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FEB 9 2005

In re Application of STRAHAN. Serial Number: 10/695,610 Filed: October 28, 2003 For: MOBILE GAS SEPARATOR SYSTEM AND METHOD FOR TREATING DIRTY GAS AT THE WELL SITE OF A STIMULATED WELL	:	PETITION UNDER M.P.E.P.708.02 V

This is in response to the petition filed October 18, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 V of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Sections 708.02 V is granted because the criteria under 37 CFR 1.102(c) have been met.

The petition is **GRANTED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Mary M. Lee P.C.
1300 E. Ninth Street
Suite 4
Edmond, OK 73034-5760

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

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

Mail Date: 04/20/2010

Applicant	: Takashi Murakami	: DECISION ON REQUEST FOR
Patent Number	: 7638163	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/695,616	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1452** 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

VEDDER PRICE, PC
875 15TH STREET, NW
SUITE 725
WASHINGTON, DC 20005

COPY MAILED

DEC 0 2 2009

OFFICE OF PETITIONS

In re Patent No. 6,954,701	:	
Issue Date: October 11, 2005	:	
Application No. 10/695,627	:	NOTICE
Filed: October 27, 2003	:	
Attorney Docket No. HACH-0002-CIP3	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
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

MORGAN, LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20004

COPY MAILED

JUL 21 2004

OFFICE OF PETITIONS

In re Application of :
Peter Aage Frischauf et al :
Application No. 10/695,646 :
Filed: October 29, 2003 :
Attorney Docket No. 036249-5001 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to the undersigned at (703) 305-8859.

This file is being referred to Technology Center Art Unit 1743.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JAN 0 3 2007

OFFICE OF PETITIONS

OPTV/MOFO
C/O Morrison & Foerster LLP
1650 Tysons Boulevard, Suite 300
Mclean, VA 22102

In re Application of	:	
Michael G. Christofalo et al.	:	
Application No. 10/695,663	:	DECISION ON PETITION
Filed: October 29, 2003	:	TO WITHDRAW
Attorney Docket No. 559442004000	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 29, 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***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Marc Kaufman, Esq.**
Nixon Peabody LLP
401 9th Street, N.W., Suite 900
Washington D.C. 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OPTV/MOFO
c/o Morrison & Foerster LLP
1650 Tysons Boulevard, Suite 300
Mclean, VA 22102

COPY MAILED

AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of

Michael G. Christofalo et al.
Application No. 10/695,663
Filed: October 29, 2003
Attorney Docket No. 559442004000

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 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 G. Adam Keser on behalf of all attorneys of record. All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Michael G. Christofalo**
407 Appian Way
Doylestown, PA 18901

cc: **Marc Kaufman, Esq.**
Nixon Peabody LLP
401 9th Street, N.W., Suite 900
Washington D.C. 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
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/695,663	10/29/2003	Michael G. Christofalo	559442004000

CONFIRMATION NO. 4069

OC000000025127852

43997
OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

Date Mailed: 08/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/17/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-08

JANICE A. VATLAND
WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210

COPY MAILED

MAR 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Maddon et al.	:	DECISION ON PETITION
Application Number: 10/695667	:	
Filing Date: 10/27/2003	:	
Attorney Docket Number:	:	
P0741.70006US00	:	

This is a decision on the petition filed on January 31, 2008, under 37 CFR 1.137(b)[1] to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.182 to expedite the petition to revive.

The petition is **GRANTED**.

---

[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(d)).

The application became abandoned on August 17, 2007, for failure to file a proper reply to the non-final Office action mailed on February 16, 2007, which set a three (3) month shortened statutory period for reply. On August 20, 2007 (certificate of mailing date August 16, 2007), an amendment and a three (3) month extension of time were filed. On November 15, 2007, however, an Office communication was mailed stating that the response filed on August 16, 2007, was not fully response to the Office communication mailed on February 16, 2007, and that a complete reply was required to be filed in accordance with the time period set forth in the non-final Office action mailed on February 16, 2007.

Petitioner has filed an amendment and a Sequence Listing as the required reply.

The application is being referred to Technology Center Art Unit 1643 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARSHALL & MELHORN
FOUR SEAGATE, EIGHT FLOOR
TOLEDO OH 43604

COPY MAILED

SEP 2 6 2005

OFFICE OF PETITIONS

In re Patent No. 6,868,230	:	
Issue Date: March 15, 2005	:	
Application No.: 10/695,702	:	NOTICE
Filed: October 29, 2003	:	
Attorney Docket No.: 1-15692	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed August 22, 2005 (certificate of mailing date August 19, 2005).

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 change of status to a large entity has been entered and made of record.

This file is being forwarded to the Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

DEC 03 2009

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Patrizla Paterlini-Brehot	:	
Application No. 10/695,744	:	
Filed: October 30, 2003	:	ON APPLICATION FOR
Attorney Docket No.2121-0178P	:	PATENT TERM ADJUSTMENT
Title: Prenatal Diagnosis	:	
Method On Isolated Foetal Cell	:	
Maternal Blood	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)" filed August 27, 2009. This petition is properly treated under 37 C.F.R. §1.705(b). Applicant submits that the correct patent term adjustment to be indicated on the patent is seventy-five (75) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

/Kery Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

COPY MAILED

MAR 2 8 2007

OFFICE OF PETITIONS

In re Patent No. 7,021,142 :

Issue Date: April 4, 2006 :

Application No. 10/695,771 : ON PETITION

Filed: October 30, 2003 :

Attorney Docket No. 1814.0001C

This is a decision on the petition filed November 30, 2 006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEP 21 2005

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of	:	
Tetsuo ASADA	:	DECISION ON PETITION
Application No. 10/695,827	:	TO WAIVE EXTENSION
Filed: October 30, 2003	:	OF TIME FEE
For: SHEET FEED DEVICE FOR FEEDING CUT SHEETS WHILE INTERPOSING SHORTENED INTERVAL BETWEEN SUCCESSIVE FED TWO SHEETS		

This is in response to the petition under 37 CFR 1.181 received in the United States Patent and Trademark Office (USPTO), on May 27, 2005, to waive the fee for the four-month extension of time required to make the Response filed May 27, 2005 considered timely.

The petition is **Dismissed**.

A review of the file record reveals that a Restriction Requirement setting a one-month extendable response period was mailed on December 30, 2004.

The petitioner states that the Restriction Requirement mailed December 30, 2004 was never received and that he only became aware of it on May 20, 2005 after speaking with the examiner on May 19, 2005. Petition requests that the four-month extension of time required to make the response filed herewith timely be waived as a response was filed promptly after applicant became aware of the December 30, 2004 Restriction Requirement.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date at and around January 30, 2005**. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirements (2) and (3) indicated above. Applicant has only set forth that the Office action (Restriction Requirement) mailed on December 30, 2004 was not received or placed in the file for application 10/695,827. A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received and a complete docket record with a copy of the list of all responses in the practitioner's office with the due date at and around January 30, 2005 is required.

Petitioner's evidence of non-receipt of the Restriction Requirement mailed on December 30, 2004 is insufficient to waive the fee for the four-month extension of time. The four-month extension of time has been charged in order to make the response filed May 27, 2005 considered timely. In the event that petitioner may perfect the showing of non-receipt in a renewed petition, petitioner may petition to request a refund of the fee charged for the four-month extension of time.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.

This application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to enter the response filed with this petition, charge Deposit account 15-0461 the necessary fee for entry as authorized on page 2 of the response, and then to forward to the examiner for prompt action on the response.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/rjc 08/26/05

UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 21 2005

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of	:	
Tetsuo ASADA	:	SUA SPONTE
Application No. 10/695,827	:	TO WAIVE EXTENSION
Filed: October 30, 2003	:	OF TIME FEE
For: SHEET FEED DEVICE FOR FEEDING CUT SHEETS WHILE INTERPOSING SHORTENED INTERVAL BETWEEN SUCCESSIVE FED TWO SHEETS		

A review of the file record reveals that a Restriction Requirement setting a one-month extendable response period was mailed on December 30, 2004. The Office received a timely filed response to the Restriction Requirement on January 26, 2005. The response was not initially matched with the present application since the wrong serial number was placed on it. The Office recently found the original timely filed response by the applicant. In view of the fact that the Office has found the original timely filed response the extension of time fee has been waived.

A separate letter requesting a refund of the extension of time fees charged on September 23, 2005 should be submitted. The letter should indicate that the applicant is entitled to a refund of the extension of time fees based upon this decision.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/bkg 11/16/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 04/26/2010

Applicant	: Jerome David	: DECISION ON REQUEST FOR
Patent Number	: 7648522	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/695,849	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **550** 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

RICHARD C. LITMAN
LITMAN LAW OFFICES, LTD.
P.O. BOX 15035
ARLINGTON, VA 22215

In re application of Jack P. Moskos, et al. Application No. 10/695,860 Filed: October 30, 2003 For: GOLF CART ENCLOSURE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on October 30, 2003, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Jack P. Moskos and Peter Trower indicating that they are 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.

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/dcg: 9/14/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Serial No. 10/695,873

Richard S. Elias
Oliff & Berridge, PLC
P.O. BOX 19928
Alexandria, VA 22320

MAILED

SEP 21 2005

Director's Office
Group 3700

In re Application of
Akio Matsunega, et al
Serial No. 10/695,873
Filed: October 30, 2003
For: EGR-GAS TEMPERATURE ESTIMATION APPARATUS FOR INTERNAL COMBUSTION ENGINE

DECISION ON REQUEST TO WITHDRAW HOLDING OF ABANDONMENT BASED ON NON-RECEIPT OF OFFICE ACTION

Receipt is acknowledged of Applicant's request to withdraw a holding of abandonment pursuant to MPEP Section 711.03, filed December 10, 2004. Applicant has requested that the holding be withdrawn based on the non-receipt of a Notice of Allowance mailed June 23, 2004. No fee has been charged to Applicant's deposit account for this request.

This application was held to be abandoned because Applicant did not pay the issue fee within the shortened statutory period after the Notice of Allowance.

At 1156 O.G. 53, a representative of the Commissioner set forth guidelines concerning the showing needed to be made when seeking withdrawal of the holding of an abandonment due to the non-receipt of an Office action. These guidelines state, in pertinent part, that the showing must consist of a statement from the practitioner representing an applicant stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached and referenced in the practitioner's statement.

Applicant's request to withdraw the holding of abandonment contains a showing which is considered to comply with these requirements.

The Notice of Allowance is being remailed with this letter. The application will be forwarded to Publications Branch for issue processing.

Holding of Abandonment RESCINDED.

Richard A. Bertsch
Director T.C. 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LINIAK, BERENATO, LONGACRE & WHITE
STE. 240
6550 ROCK SPRING DRIVE
BETHESDA, MD 20817

COPY MAILED

OCT 12 2006

OFFICE OF PETITIONS

In re Application of
Stuart et al.
Application No. 10/695,877
Filed: October 30, 2003
Attorney Docket No. 8200.612

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas P. Liniak. Thomas P. Liniak has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana C. Walsh

Liana Chase Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Law Office Of Leland Wiesner
1144 Fife Ave.
Palo Alto, CA 94301

COPY MAILED

AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Tuan Nguyen, et. al. :
Application No. 10/695,888 : ON PETITION
Filed: October 28, 2003 :
Attorney Docket No. 00121-000800000 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on March 2, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed June 2, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight August 2, 2004.

In response to the Notice to File Corrected Application Papers, petitioner submitted an authorization to charge $1,330 for the petition to revive fee, $65 for a late filing surcharge, nine (9) sheets of replacement drawings containing Figures 1-9, and the statement of unintentional delay.

Since the petition contains an assertion that this application is other than small entity, status as a small entity has been removed and the petition fee will be charged as a large entity. If this is an incorrect interpretation, than petitioner must notify the Office immediately.

Petitioner should note that effective December 8, 2004, the large entity unintentional petition to revive fee was increased to $1,500 and the large entity surcharge for the late filing fee or oath is $130. Since the Notice did not require petitioner to submit a surcharge for the late filing, this fee is unnecessary and will not be charged to petitioner's deposit account.

The petition is **dismissed**.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 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) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (2) above.

With respect to item (2), the deposit account listed in the petition contains insufficient funds. Therefore, petitioner must submit $1,500 for the petition fee before this application can be revived.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Any 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)." Petitioner is advised that this is not a final agency decision.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: Customer Service Window
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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Leland Wiesner
366 Cambridge Avenue
Palo Alto, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Law Office Of Leland Wiesner
1144 Fife Ave.
Palo Alto, CA 94301

COPY MAILED
OCT 1 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Tuan Nguyen, et. al.	:	
Application No. 10/695,888	:	ON PETITION
Filed: October 28, 2003	:	
Attorney Docket No. 00121-000800000	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed by facsimile transmission on August 25, 2005, to revive the above-identified application. The delay in responding is sincerely regretted.

The petition now satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of nine (9) sheets of replacement drawings containing Figures 1-9; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

JUN 0 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Mattingly, Stanger & Malur, P.C.
1800 Diagonal Rd., Suite 370
Alexandria, Virginia 22314

In re Application of: Sekine, et al.
Application No. 10/695,890
Filed: 30 October 2003
For: A METHOD & SYSTEM FOR TAPE MANAGEMENT

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed 19 April 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

5/31/05

GO

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DR. MARK FRIEDMAN LTD.
c/o Bill Polkinghorn
Discovery Dispatch
9003 Florin Way
Upper Marlboro, MD 20772

COPY MAILED
JUL 0 2 2004
OFFICE OF PETITIONS

In re Application of	:	
Shahar	:	
Filed: October 30, 2003	:	ON PETITION
Application No. 10/695,918	:	
Atty. Dkt. No.: 1900/25	:	

This decision is in response to the correspondence filed May 3, 2004 entitled "CORRECTION OF APPLICATION PAPERS." This correspondence is being treated as a petition to accord the above-identified application a filing date of October 30, 2003.

The application was filed October 30, 2003. The Notice of Incomplete Nonprovisional Application ("Notice") mailed April 22, 2004 by the Office of Initial Patent Examination indicated that the application had not been accorded a filing date because the application was submitted without drawings as required under 35 USC 113 (first sentence).

The Notice indicated the filing date would be the date of receipt of the required drawings and that any assertions that the drawings were submitted or were not necessary for a filing date must be by way of petition (and petition fee).

Petitioner herein argues that the application as deposited included three sheets of drawings. Petitioner has included as proof of mailing and proof of receipt of the three sheets of drawings a return postcard date stamped by the Office on October 30, 2003. A copy of the drawing sheets purportedly filed with the application on October 30, 2003 was also supplied.

The original three sheets of drawings have not been located. However, in view of the evidence presented, the petition to accord the application a filing date of October 30, 2003 is GRANTED.

Since the original drawing sheets cannot be located in the Office, the copy of the drawing sheets supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of October 30, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUN 29 2004

In re Application of
Andrew B. Jones *et al*
Application No. 10/695,942
Filed: October 30, 2003
Attorney Docket No. 45444

: DECISION ON PETITION

This is a decision on the petition to make special filed on October 30, 2003. The $130.00 petition fee has been received.

The petition is granted.

The petition to make special is based upon the existence of an actual infringement. A review of the petition shows that all of the requirements established in MPEP § 708.02(II) for a petition on that grounds have been satisfied. Therefore, petitioner is entitled to have this application handled special in accordance with MPEP § 708.02, subsection styled "Handling of Petitions to Make Special".

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3728 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

Bell, Boyd, & Lloyd LLC
P.O. Box 1135
Chicago, IL 60690-1135

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

APR 2 5 2005

OFFICE OF PETITIONS

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

In re Application of	:	
Andreas Wachtler et al	:	
Application No. 10/695,956	:	ON PETITION
Filed: October 30, 2003	:	
Attorney Docket No. MERCK-1497-D03	:	

This is a decision on the petition, filed April 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 January 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1756 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Liniak, Berenato, Longacre & White
6550 Rock Spring Drive, Suite. 240
Bethesda MD 20817

COPY MAILED

AUG 30 2006

OFFICE OF PETITIONS

In re Application of	:	
ALLMANDINGER, et al.	:	
Application No. 10/695,958	:	DECISION ON PETITION
Filed: October 30, 2003	:	TO WITHDRAW
Attorney Docket No. 8200.623	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas P. Liniak. Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Liana Chase for
Amelia Au
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/21/06

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction on Patent No.: 6907818

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Nomura

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:

Ed Tech

SPE

3745

Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Off

PTOL-306 (REV. 7/03)

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

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

Applicant	: Ken Salter	: DECISION ON REQUEST FOR
Patent Number	: 7643518	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/695,968	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1712** 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

HUMAN GENOME SCIENCES INC
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

COPY MAILED

DEC 0 1 2004

OFFICE OF PETITIONS

In re Application of
Hu et al.
Application No. 10/696,002
Filed: October 30, 2003
For: VASCULAR ENDOTHELIAL GROWTH FACTOR 2
Attorney Docket No: PF112P3C2US
Pub. No.: US 2004/0143103 A1
Pub. Date: July 22, 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 Continuation of U.S. Application 10/084,488 filed February 28, 2002, now U.S. Patent No. 6,734,285. Since, the parent application is now patented and 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

[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).

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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
JUL 15 2010
OFFICE OF PETITIONS

In re Application of	:	
Steven E. Arthur	:	
Application No. 10/696,014	:	DECISION ON PETITION
Filed: October 28, 2003	:	
Attorney Docket No. 020375-044100US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, October 19, 2009, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 20, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $980 extension of time fee submitted with the petition on April 19, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3627 for appropriate action by the Examiner in the normal course of business on the reply received April 28, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
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

CLAIRVOYANTE, INC.
874 GRAVENSTEIN HIGHWAY SOUTH, SUITE 14
SEBASTOPOL, CA 95472

COPY MAILED

MAY 04 2007

OFFICE OF PETITIONS

In re Application of	:	
Candice Helen Brown Elliott, et al	:	
Application No. 10/696,026	:	ON PETITION
Filed: October 28, 2003	:	
Attorney Docket No. 08831.0062	:	

This is a decision in response to the petition, filed December 15, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed September 16, 2005. A Notice of Abandonment was mailed on August 29, 2006. In response, on December 15, 2006, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2629 for consideration of the amendment filed December 15, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Vladimir Grushin	: DECISION ON REQUEST FOR
Patent Number	: 7595501	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/696,048	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **814** 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

JUL 29 2004

DCM

In re Application of Freudenrich, et al. Serial Number: 10/696,056 Filed: October 29, 2003 For: IMPROVED NIXTAMILIZATION PROCESS	: : : : :	PETITION UNDER M.P.E.P.708.02 VI

This is in response to the petition filed November 21, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 VI of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 VI is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

CARSTENS YEE & CAHOON, LLP
P O BOX 802334
DALLAS TX 75380

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL ZARRABIAN
1925 CENTURY PARK EAST
SUITE 500
LOS ANGELES, CA 90067

COPY MAILED

DEC 0 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Michael Popovsky et al	:	
Application No. 10/696,069	:	DECISION GRANTING PETITION
Filed: October 28, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. HT03	:	

This is a decision on the petition, filed September 13, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on July 2, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been previously rescinded.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This matter is being referred to Technology Center Art Unit 1744 for examination in due course.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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 10/696074 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Shumaker & Sieffert, P.A.
1625 Radio Drive
Suite 300
Woodbury, MN 55125

COPY MAILED

APR 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Gregory Parker Brown	:	
Application No. 10/696,083	:	DECISION ON PETITION
Filed: October 29, 2003	:	TO WITHDRAW
Attorney Docket No. 1003-001US02	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 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 Kent J. Sieffert on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Geoffrey P. Brown at the address indicated below.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Geoffrey Brown**
Social Animals, Inc.
18545 Azvre Road
Deephaven, MN 55391

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

AUG 25 2004

VP
PAPER NO. ___

In re Application of
Naum Sapozhnikov
Serial Number: 10/696,085
Filed: October 29, 2003
For: AIRPORT CONCRETE PAVEMENT WITH THE PRESET STRENGTH SAFETY LEVEL

PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed October 29, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Naum Sapozhnikov
1550 N. Poinsettia Pl., Apt. 210
Los Angeles CA 90046

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

COPY MAILED

SEP 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Sheau-Hwa Ma, et. al.	:	
Application No. 10/696,088	:	DECISION ON PETITION
Filed: October 29, 2003	:	
Attorney Docket No. FA1062USNA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Rejection of June 8, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal with $510 fee; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Finance record indicates a charge for $1590 for a four month extension of time; however, this fee is unnecessary. Of the $1590 submitted, $1540 will be used for the petition fee and the remaining $50 will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 1796 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

for
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

ADAM K. SACHAROFF
MUCH SHELIST FREED DENENBERG AMENT&RUBENSTEIN,PC
191 N. WACKER DRIVE
SUITE 1800
CHICAGO IL 60606-1615

COPY MAILED

DEC 13 2005

OFFICE OF PETITIONS

In re Application of :
Joel Jameson :
Application No. 10/696,100 :
Filed: October 29, 2003 :
Attorney Docket No.: 4000735.0023

ON PETITION

This is a decision on the petition filed December 7, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed May 3, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned August 4, 2005. Accordingly, a Notice of Abandonment was mailed November 8, 2005.

This matter is being referred to Technology Center 3623 for appropriate action on the amendment filed December 7, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW 04-04

STEPHEN C. GLAZIER
KIRKPATRICK & LOCKHART LLP
1800 MASSACHUSETTS AVENUE, NW
WASHINGTON DC 20036

COPY MAILED

APR 1 6 2004

OFFICE OF PETITIONS

In re Application of	:
Hellbusch, Propst, Balsavar,	:
Schaefer, and Wardhan	: DECISION REFUSING STATUS
Application No. 10/696,163	: UNDER 37 CFR 1.47(a)
Filed: 29 October, 2003	:
Atty Dkt No. 0307091.0169	:

This is in response to the petition filed under 37 CFR 1.47(a)[1] on 25 February, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 29 October, 2003, with a declaration naming Mark H. Hellbusch, Bryon K. Propst, Girish U. Balsavar, Robert G. Schaefer, and Harsh Wardhan as joint inventors and signed by all inventors except Wardhan on behalf of themselves and joint inventor Wardhan. Accordingly, on 22 December, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Application, requiring Wardhan's signature on the oath or declaration and a surcharge for its late filing. A two (2)-month period for reply was set.

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(a).

BEST AVAILABLE COPY

In response, on 25 February, 2004, petitioners filed the present petition.

Petitioners state that a copy of the application was sent to Wardhan (a.k.a. Harsh Gupta) by e-mail (copy attached) but that the non-signing inventors' current employer, but that the inventor has not signed the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2).

With regard to item (1), while petitioners have provided a copy of an E-mail transmitting the application to Harsh Gupta, on 20 February, 2004, the petition was filed only 5 days later. As such, there is a question whether the non-signing inventor was given sufficient time to review the application papers and sign and return the declaration. Additionally, as the E-mail was sent to "Harsh Gupta", and the inventor has not provided documentary evidence of a legal change of name, it is unclear whether the E-mail constitutes a valid presentment under Rule 47. Therefore, in the absence of evidence of a legal change of name, it is recommended that petitioners sent a copy of the application papers (specification, including the claims, drawings if any, and the declaration) to the named inventor (Harsh Wardhan) at his last known address.

Petitioners must show proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) were sent or given to the non-signing inventor for review.[2] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventor

[2] MPEP 409.03(d).

BEST AVAILABLE COPY

or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Petitioners must also present proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

It is additionally noted that if petitioners wish to have Wardhan's name changed in Office records, a petition under 37 CFR 1.182 for change of inventor's name, accompanied by the appropriate petition fee, must be filed.

With regard to item (2), the declaration present with the present petition is defective in that it lacks the residence and mailing address of non-signing inventor Wardhan. The oath or declaration must identify the mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.[3] Petitioners must submit a new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by all of the signing inventors on behalf of themselves and the non-signing inventor. Further correspondence with respect to this matter should be addressed as follows:

Since this petition was not filed within two (2) months of the date that the Notice to File Missing Parts was Mailed, a $110.00 one (1) month extension of time fee is due and will be charged to counsel's deposit account, No. 50-1721.

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

BEST AVAILABLE COPY

[3] 37 CFR 1.63(c).

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 07-04

STEPHEN C. GLAZIER
KIRKPATRICK & LOCKHART LLP
1800 MASSACHUSETTS AVENUE, NW
WASHINGTON DC 20036

COPY MAILED

JUL 0 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Hellbusch, Propst, Balsavar,	:	
Schaefer, and Wardhan	:	DECISION NOTING JOINDER OF
Application No. 10/696,163	:	INVENTOR AND PETITION
Filed: 29 October, 2003	:	UNDER 37 CFR 1.47(a) MOOT
Atty Dkt No. 0307091.0169	:	

Papers filed on 17 June, 2004 (certificate of mailing 15 June, 2004), in response to the decision dismissing petition mailed on 16 April, 2004, included a Declaration signed by the previously non-signing inventor, Harsh Wardhan, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

The Office notes that joint inventor Wardhan appears to have written "AKA Harsh Wardhan Gupta" beside his typewritten name, and appears to have signed the declaration as "Harsh Gupta." Petitioner is reminded that the declaration will issue with the names of the inventors as typewritten. It is further noted that in the original petition it was stated that petitioners stated that joint inventor Wardhan may have changed his last name to "Gupta" but had not provided a petition under 37 CFR 1.182. If petitioner wishes the patent to issue in the name of joint inventor Wardhan as he signed the declaration rather than as his name is typewritten, a petition under 37 CFR 1.182 to correct the inventor's name is required, accompanied by the requisite petition fee.

It is noted that petitioners filed a surcharge of $130.00 for late filing of the declaration with the present petition. This surcharge was previously paid on 25 February, 2004, however. As such, the surcharge paid with the present petition will be credited to counsel's deposit account, No. 50-1721.

This application will be forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 7/8/04

2 Serial/Patent # 10696163

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
1460	Petition		6/17/04	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $130

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 50--1721

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

No Fee Due w/ Renewed Pet

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: D. WOOD TITLE: SR ATTY

SIGNATURE: [illegible] PHONE: 3086918

OFFICE: OD

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kelly DATE: 7-9-04

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DUANE MORRIS
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

COPY MAILED

JAN 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Charles R. Bridges	:	
Application No. 10/696,173	:	ON PETITION
Filed: October 28, 2003	:	
Attorney Docket No. E0615-00061	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 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 Notice to File Missing Parts of Nonprovisional Application (Notice) mailed February 24, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 25, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/696,200	10/28/2003	2184	900	GB920030050US1	11	14	3

CONFIRMATION NO. 7325

UPDATED FILING RECEIPT

OC000000012228999

26502
IBM CORPORATION
IPLAW IQ0A/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Date Mailed: 03/31/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

David M. Chess, Mohegan Lake, NY;
James S. Luke, Isle of Wight, UNITED KINGDOM;

Assignment For Published Patent Application

INTERNATIONAL BUSINESS MACHINES CORPORATION, ARMONK, NY;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/29/2004

Projected Publication Date: 04/28/2005

Non-Publication Request: No

Early Publication Request: No

Title

System, method and program product for detecting malicious software

Preliminary Class
714

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARK G. MORTENSON
POST OFFICE BOX 310
NORTH EAST, MD 21901-0310

COPY MAILED

MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Juliana H. J. Brooks	:	
Application No. 10/696,211	:	ON PETITION
Filed: October 29, 2003	:	
Attorney Docket No. BKL:104(A) US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 2, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed August 31, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 1, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CLAIRVOYANTE, INC.
874 GRAVENSTEIN HIGHWAY SOUTH, SUITE 14
SEBASTOPOL CA 95472

COPY MAILED

APR 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Credelle, Thomas Lloyd	:	
Application No. 10/696,236	:	DECISION ON PETITION
Filed: October 28, 2003	:	
Attorney Docket No. 08831.0056-01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an 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 2629 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 500
1200 - 19TH STREET NW
WASHINGTON, DC 20036-2402

COPY MAILED

FEB 28 2007

OFFICE OF PETITIONS

In re Patent No. 7,082,883	:
Issue Date: August 1, 2006	:
Application No. 10/696,262	: DECISION GRANTING PETITION
Filed: October 29, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. SWIM-019/00US	:

This is a decision on the petition, filed August 1, 2006, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

The petition under 37 CFR 1.137(b) is **GRANTED**.

Petitioner states that the present application is the subject of an application filed in an eighteen-month publication country on October 19, 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. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart 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(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country 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 as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

This application matured into Patent No. 7,082,883 on August 1, 2006. Therefore, no further action is required in this patented filed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DUANE MORRIS LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

COPY MAILED
MAY 17 2007
OFFICE OF PETITIONS

In re Application of	:	
Scott D. Gardner, et al.	:	
Application No. 10/696,270	:	DECISION ON PETITION
Filed: October 29, 2003	:	TO WITHDRAW
Attorney Docket No. H1799-00228	:	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 7, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Duane Morris, LLP has been revoked by the assignee of the patent application on April 23, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER B. AUSTIN
MICHAEL BEST & FRIEDRICH, LLP
100 E. WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202

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
10/696,270	10/29/2003	Scott D. Garner	H1799-00228

CONFIRMATION NO. 6484

OC000000023758017

41396
DUANE MORRIS LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

Date Mailed: 05/08/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/23/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUN 28 2005

THE MCINTOSH GROUP
8000 E. PRENTICE AVE.
SUITE B-6
ENGLEWOOD, CO 80111

In re application of:
James David Main II et al.
Application No. 10/696,273
Filed: October 30, 2003
For: METHOD AND APPARATUS TO ENSURE PROPER GEOCODING

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on June 13, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks conditions A) and B) above.

As to condition A, while the form requesting withdrawal as attorney has Kelly de la Torre's name typed at the bottom, Ms. de la Torre's signature is missing.

As to condition B), the reason given "Mutually agreed by both Parties" is not clear as to who is agreeing to what terms. Condition B) can be met by specifying one of the valid reasons for withdrawal under 37 CFR 10.40(c)(1)-(6).

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/dew: 6/20/05

RECEIVED
CENTRAL FAX CENTER
JUL 0 6 2005

PTO/SB/83 (04-05)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/696,273
Filing Date	October 30, 2003
First Named Inventor	James David Main II
Art Unit	3627
Examiner Name	Not yet assigned
Attorney Docket Number	Compass001

APPROVED SEP 1 9 2005

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 35846

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Pursuant to 37 CFR 10.40(c)(5), the practioner's client knowingly and freely assents to termination of the employment.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[x] Firm or Individual Name	Brant Howard				
Address	CompassCom, Inc. 6770 S. Dawson Circle, Unit 1A				
City	Centennial	State	CO	Zip	80112-4224
Country	U.S.A.				
Telephone	(303) 522-1908	Email			
Signature	Kelly de la Torre				
Name	Kelly de la Torre	Registration No.	53,677		
Date	July 6, 2005	Telephone No.	(303) 689-9560, ext. 11		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

K.P. CORRELL AND ASSOCIATES, L.L.P.
270 BELLEVUE AVE., #326
NEWPORT RI 02840

COPY MAILED

AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Hall et al.	:	DECISION ON
Application No. 10/696,274	:	APPLICATION FOR
Filed: October 29, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
ICLS 1001-3	:	

This is a decision on the "PETITION TO COMMISSION (37 C.F.R. §1.705(e))," filed on May 2, 2009. Applicants request that the Patent Term Adjustment for the above-identified patent be increased from two hundred twenty-five (225) days to four hundred eighty-four (484) days.

The application for patent term adjustment patent is **DISMISSED**.

On April 1, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is two hundred twenty-five (225) days.

The Office initially determined a patent term adjustment of 225 days based on an adjustment for PTO delay of 527 days resulting from 527 days of delay in mailing a non-final office action on June 9, 2006, fourteen (14) months and 527 days after the filing date of the application. The patent term adjustment was reduced by 302 days of applicant delay pursuant to 37 C.F.R. § 1.704(b). Specifically, the patent term adjustment was reduced by 28 days under 37 CFR 1.704(b) for the filing of a response on March 14, 2007, to a non-final Office action mailed on November 14, 2006, which was three (3) months and 28 days after the mailing of the non-final Office action; by 259 days under 37 CFR 1.704(c)(7) for the filing of an amendment correcting an omission on November 28, 2007, 259 days after the

filing of the paper having the omission on March 14, 2007, and by 15 days under 37 CFR 1.704(b), for the filing of a response to a non-final Office action filed on September 14, 2008, which was filed three (3) months and 15 days after the mailing of the non-final Office action on May 30, 2008.

The subject application for patent term adjustment was timely filed on May 2, 2009, prior to payment of the issue fee.[1]

Applicants assert that the 259 day period of delay is not warranted because the examiner held that the amendment filed on March 14, 2007 was responsive. Specifically, applicants note that Page 2 of the Office action mailed in response to the corrected amendment filed on November 28, 2007 states that "Applicant's remarks regarding the Election by Original Presentation are persuasive."

37 CFR 1.704(b) states that an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

37 CFR 1.704(c)(7) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending

[1] PALM records indicate that the issue fee was paid on May 24, 2009.

on the date that the reply or other paper correcting the omission was filed.

37 CFR 1.111(b) states that in order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a *bona fide* attempt to advance the application or the reexamination proceeding to final action.

37 CFR 1.135(c) states that 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.

At the outset, notwithstanding applicants' assertion that the reply filed on March 14, 2007 was not non-compliant, a review of the record reveals that a reply in compliance with 37 CFR 1.111 was not filed until November 28, 2007, 259 days after the filing of the original reply.

Furthermore, applicants' assertion that the reply of March 14, 2007 was not non-compliant is not persuasive. In this regard, the showing of record is that applicants' additional arguments filed on November 28, 2007 were required in order for the examiner to fully consider the amendment filed on March 14, 2007. The comment in the final Office action mailed on January 23, 2008 that applicants' remarks regarding the Election by Original Presentation are persuasive supports a conclusion that the additional arguments supplied on November 28, 2007 were

required for a complete reply. The showing of record, therefore, is that applicants' reply of March 14, 2007, 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. Once the inadvertently omitted material was supplied, in this case by applicants' reply of November 28, 2007, the reply was complete to the extent that the examiner found applicants' argument to be persuasive. Accordingly, the removal of the period of reduction of 259 days is not warranted.

The response filed on March 14, 2007 was not in compliance with 37 CFR 1.111. Applicants did not file a proper reply until November 28, 2007, and therefore is properly assessed a reduction in patent term adjustment for filing a proper reply three (3) months and 259 days after the filing of the reply on March 14, 2007 having the omission.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Alesia Brown for

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,279	10/29/2003	Joseph D. Rainville	GP-303951	6502

65798 7590 12/04/2007
MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS, MI 48304

EXAMINER
HODGE, ROBERT W

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
12/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

GC

Mailed: 12-4-07

In re application of	:	
Rainville, Joseph D.	:	
Serial No. 10/696,279	:	DECISION ON
Filed: October 29, 2003	:	PETITION
For: CENTRIFUGAL COMPRESSOR SURGE	:	
DETECTION USING A BI-DIRECTIONAL	:	
MFM IN A FUEL CELL SYSTEM	:	

This is a decision on the PETITION UNDER 37 CFR 1.144 TO REMOVE THE REQUIREMENT FOR RESTRICTION, filed on March 14, 2007.

On September 26, 2006 a Requirement for Restriction between two groups of Inventions was mailed. On October 26, 2006 a Response to the Restriction Requirement including an election of Group I with traverse was filed. A Non-Final Office Action was mailed on December 13, 2006 maintaining the restriction requirement and making it Final. A response to the Non-Final Office Action including amendments to the claims and remarks was filed on March 14, 2007. A Petition under 37 CFR 1.144 to remove the Requirement for Restriction was filed on March 14, 2007.

Petitioner has argued that a proper search for independent claim 1 would necessarily overlap a proper search for independent claim 15 and vice versa, thus Examiner has not shown burden in the requirement for restriction. Petitioner additionally argues that the Examiner has not established that the Inventions are distinct.

DECISION

Section 806.05(h) [R-3] Product and Process of Using of the MPEP states:

> A product and a process of using the product can be shown to be distinct inventions if either or both of the following can be shown: (A) the process of using as claimed can be practiced with another materially different product; or (B) the product as claimed can be used in a materially different process.
>
> The burden is on the examiner to provide an example, but the example need not be documented.
>
> If the applicant either proves or provides a convincing argument that the alternative use suggested by the examiner cannot be accomplished, the burden is on the examiner to support a viable alternative use or withdraw the requirement.
>
> Form *>paragraphs< 8.20 *>and 8.21.04 should< be used in restriction requirements between the product and method of using.

Section 808 [R-3] Reasons for Insisting Upon Restriction of the MPEP states:

Every requirement to restrict has two aspects: (A) the reasons (as distinguished from the mere statement of conclusion) why **>each invention< as claimed *>is< either independent or distinct >from the other(s)<; and (B) the reasons >why there would be a serious burden on the examiner if restriction is not required, i.e., the reasons< for insisting upon restriction therebetween as set forth in the following sections.

Section 808.02 [R-5] Establishing Burden of the MPEP states:

Where, as disclosed in the application, the several inventions claimed are related, and such related inventions are not patentably distinct as claimed, restriction under 35 U.S.C. 121 is never proper (MPEP § 806.05). If applicant voluntarily files claims to such related inventions in different applications, double patenting may be held.

Where the * inventions as claimed are shown to be independent or distinct under the criteria of MPEP § 806.05(c) - § 806.06, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following:

(A) Separate classification thereof : This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification.

(B) A separate status in the art when they are classifiable together : Even though they are classified together, each invention can be shown to have formed a separate subject for inventive effort when the examiner can show a recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search.

(C) A different field of search : Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes /subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search.

Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among independent or related inventions

Petitioner argues that a proper search for independent claim 1 would necessarily overlap a proper search for independent claim 15 and vice versa. Petitioner argues that the Examiner has not shown a proper separate classification and a proper different field of search and has not identified a separate status in the art.

Section 808.02 of the MPEP indicates that burden can be established by appropriate explanation of **one of the following**: separate classification, or a separate status in the art, or a different field of

search. Examiner has established that the groups have separate classification (Group I, class 429/22 and Group II, class 429/13; see Restriction requirement filed 9/26/07 page 2). There is no additional requirement to show that there is also a separate status in the art and a different field of search, however these may also be shown. Petitioner has not rebutted this showing by appropriate showings or evidence.

Petitioner argues that independent claim 15 positively recites a method for detecting and eliminating a surge condition of a compressor in a fuel cell module and dependent claim 18 positively recites a by-pass valve in a cathode exhaust line of the fuel cell module, thus the Examiner has not shown that the Inventions of Group I and II are distinct.

Examiner indicated in the Restriction Requirement mailed on September 26, 2007 that the Groups are distinct (see MPEP 806.05(h)) by showing that the method of operating can be used for any fuel cell system that utilizes a compressor and not just the turbomachine compressor of the invention in claim 1. In the response to the traversal on December 13, 2006, Examiner further explained that the method can be practiced with another materially different product. (Note that the method claims do not require the particular fuel cell claimed in claim 1; the method could be practiced without the particulars of the fuel cell module, compressor, surge detection device or controller as claimed). Petitioner has not submitted evidence or identified evidence now of record showing that the inventions are obvious variants or clearly admitted on the record that this is the case.

Petitioner's arguments are not persuasive. The Examiner has properly established distinctness between the groups and serious burden. Accordingly, the Petition to remove the requirement for Restriction under 37 CFR 1.144 is **DENIED**. The Application is forwarded to the Examiner for consideration of the Amendment and Remarks filed on March 14, 2007.

It is noted, that all restriction requirements between a product and a process of using the product should be followed by form paragraph 8.21 (see John Love Memo April 25, 2007) and by form paragraph 8.21.04 to notify the applicant that if a product claim is found allowable, process claims that depend from or otherwise require all the limitations of the patentable product may be rejoined. (Notes 3 and 4, FP 8.20)

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS MI 48304

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOV 21 2006

CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI,
STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND NJ 07068

In re Application of:
Pearlman, Andrew L.
Serial No. 10/696,287
Filed: OCTOBER 29, 2003
Docket: 701030-16
Title: TISSUE CHARACTERIZATION BASED ON IMPEDANCE IMAGES AND ON IMPEDANCE MEASUREMENTS

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed on June 21, 2006 under 37 CFR § 1.181. Petitioner requests the supervisory authority of the Commissioner to overturn the decision of not approving the Terminal Disclaimer filed on February 02, 2006.

The petition is dismissed as moot.

A Terminal Disclaimer was filed in response to an obviousness-type double patenting rejection in an Office action mailed October 31, 2005. The Terminal Disclaimer was not approved initially on the basis the Power of Attorney was not deemed proper.

In the interim between the filing of the petition and this decision on petition, the Terminal Disclaimer was approved (on July 20, 2006) upon reconsideration so that that decision on petition is rendered moot. Nevertheless, petitioner states, "the enclosed Power of Attorney is effective for all continuation applications." In the present situation this is true but petitioner should be aware of the latest revisions to 37 CFR § 1.32 effective June 25, 2004. If more than ten attorneys are individually listed as part of a Power of Attorney on a 37 CFR §1.63 declaration or other paper filed before June 25, 2004, the same Power of Attorney in a continuation under 37 CFR § 1.53(b) filed on or after June 25, 2004 may no longer be effective.

PETITION DISMISSED AS MOOT.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Program Examiner, at (571) 272-4514.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

COPY MAILED

FEB 22 2006

OFFICE OF PETITIONS

In re Application of :
Kurt Stahl, et al. :
Application No. 10/696,297 :
Filed: October 28, 2003 :
Attorney Docket No. 10773-134984 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 9, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 3, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 6, 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. However, it is not apparent whether 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 record until such time as appropriate instructions are received to the contrary.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being referred to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

cc: Steven J. Munson
1700 N.W. 167th Place
Suite 240
Beaverton, OR 97006

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

ROBERT MOLL
1173 ST. CHARLES COURT
LOS ALTOS, CA 94024

COPY MAILED

JUL 11 2007

OFFICE OF PETITIONS

In re Patent No. 7,143,122	:	
Issued: November 28, 2006	:	
Application No. 10/696,327	:	NOTICE
Filed: October 28, 2003	:	
Patentee: David A. Burton, 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CAROL H. PETERS ESQ
MINTZ LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, PC
ONE FINANCIAL CENTER
BOSTON, MA 02111

COPY MAILED

JUL 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Flauntt et al.	:	
Application No. 10/696,338	:	ON PETITION
Filed: October 23, 2003	:	
Attorney Docket No. 24564C	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $2230.00 extension of time fee submitted with the petition on 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 1796 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/696,339	10/29/2003	Bernardo Huberman	200309819-1	8096

7590 04/22/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
KARMELEK, ALISON L

ART UNIT	PAPER NUMBER
3623	

NOTIFICATION DATE	DELIVERY MODE
04/22/2008	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: 04/21/2008 DTERRY 10696339
11/03/2003 WABDELR1 00000033 082025
02 FC:1201 258.00 CR

FORM PET651G (Rev. 08/07)

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.
10/696,339	10/29/2003	Bernardo Huberman	200309819-1	8096

22879 7590 04/22/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
KARMELEK, ALISON L

ART UNIT	PAPER NUMBER
3623.	

NOTIFICATION DATE	DELIVERY MODE
04/22/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
mkraft@hp.com
ipa.mail@hp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUN 21 2005

Christopher John Rudy
209 Huron Avenue, Suite 8
Port Huron, MI 48060

In re Application of:	:	**DECISION ON PETITION TO**
John C. MONTAGNA et al.	:	**INSTRUCT EXAMINER**
Application No. 10/696,342	:	**TO ENTER AMENDMENT**
Filed: October 29, 2003	:	

This is in response to the petition filed April 15, 2005 to enter an accompanying after final amendment.

A review of the record indicates that a final rejection was mailed on January 19, 2005. Applicants submitted an amendment after final on March 21, 2005. An advisory action was mailed on April 5, 2005 indicating non-entry of the amendment after final because of newly added limitations to claim 27. An interview summary was mailed on April 19, 2005 indicating the Examiner reiterated the reasons for non-entry of the amendment after final.

A review of claim 27 reveals that Applicants merely added limitations from independent claim 26, from which claim 27 originally depended, as well as dependent claims 29 and 31. In the final rejection, the Examiner rejected claims 26 and 27 under 35 USC 102(e) over Darbishire '364 and claims 29 and 31 under 35 USC 103(e) over Darbishire '364 in view of Clark et al.

Newly proposed claim 27 does not contain additional limitations that would require a new search and/or additional consideration.

The petition is **GRANTED**.

The application will be returned to the examiner for immediate action consistent with this decision, including the entry of the amendment after final mailed April 15, 2005 and the preparation of a non-final action on the merits.

Telephone inquiries should be directed to D. Glenn Dayoan, Supervisory Patent Examiner, at (571) 272-6659.

Robert J. Oberleitner, Director
Patent Technology Center 3600
(571) 272-5350

dgd:5/5/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10696354

DATE : 2806

Paper No.: —

TO SPE OF : ART UNIT 1723 - ETHERKORN

SUBJECT : Request for Certificate of Correction on Patent No.: 6936167

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

ROCHAUN JOHNSON
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 119

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:

Applicants never properly claimed CIP priority during the pendency of the application. They cannot claim priority now without a granted petition for the unintentionally delayed claim of priority. See MPEP 201.11 III D.

DAVID SAMPLE
SUPERVISORY PATENT EXAMINER

SPE

1797
Art Unit

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Date: February 27, 2008
Patent No: 6,936,167 B2
Inventor: Hobbs et. al
Issued: August 30, 2005

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction in the above-identified patent.

Respecting, the alleged error in the claim for priority, section 119 of 35 U.S.C. requires both a claim for priority and a certified copy of the foreign application be filed in order that a patent issue with information. No record can be found of any transmitted to us of a certified copy of continuation-in-part of applications.

In view of the foregoing, your request in this matter is hereby denied.

RoChaun Johnson
Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext 119

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LATHROP & GAGE LLP
4845 PEARL EAST CIRCLE
SUITE 201
BOULDER, CO 80301

COPY MAILED
FEB 18 2010

In re Application of	:	
Gregory Winfield Gorman	:	DECISION ON PETITION
Application No. 10/696,373	:	TO WITHDRAW
Filed: October 29, 2003	:	FROM RECORD
Attorney Docket No. 412589	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 8, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Curtis A. Vock on behalf of all attorneys of record who are associated with Customer No. 30955.

All attorneys/agents associated with Customer Number 30955 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is an outstanding Office action mailed December 28, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Gregory W. Gorman
473 Wyoming Circle
Golden CO 80403

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

COPY MAILED
AUG 17 2006
OFFICE OF PETITIONS

In re Application of	:
Albert K. Chin	:
Application No. 10/696,381	: DECISION ON PETITION
Filed: October 28, 2003	:
Attorney Docket No. 80121-08565	:

This is a decision on the petition filed May 26, 2006, under 37 CFR 1.137(b), to revive the instant nonprovisional 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. No additional petition fee is required.

Petitioner states that the application is abandoned for failure to file a rescission of a non-publication request.

If 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, however, petitioner has not provided the exact filing date of the foreign application or a rescission of the non-publication request. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application and a rescission of the non-publication request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

COPY MAILED

OCT 2 6 2006

OFFICE OF PETITIONS

In re Application of
Albert K. Chin
Application No. 10/696,381
Filed: October 28, 2003
Attorney Docket No. 80121-08565

DECISION ON PETITION

This is a decision on the renewed petition, filed September 5, 2006, under 37 CFR 1.137(b), to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on January 13, 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 publication date of December 21, 2006 has already been communicated to the applicant in a notice mailed September 5, 2006.

The petition fee in the amount of $1500.00 was applied with the Petition filed May 26, 2006 and since this is a renewed petition, no additional fees are due and none have been charged.

This matter is being referred to Technology Center 3739.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

COPY MAILED

MAY 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Albert K. Chin	:	
Application No. 10/696,381	:	DECISION ON PETITION
Filed: October 28, 2003	:	TO WITHDRAW
Attorney Docket No. 80121-08565	:	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 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 Albert C. Smith 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).

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: ALBERT K. CHIN
2021 NEWELL ROAD
PALO ALTO, CA 94303

cc: JASON R. KRAUS
FAEGRE & BENSON
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WARNER J. DELAUNE, JR.
ADAMS AND REESE, LLP
450 LAUREL STREET
SUITE 1900
BATON ROUGE, LA 70801

COPY MAILED
SEP 1 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Jason R. Cooner, et. al.	:	
Application No. 10/696,388	:	ON PETITION
Filed: October 28, 2003	:	
Attorney Docket No. 9573-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2006, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed August 11, 2004. A Notice of Abandonment was mailed on May 11, 2005.

Petitioner should note that effective December 8, 2004, the statutory basic filing fee is listed as $395, the late filing surcharge is $65, and the fee for claims over 20 is listed as $25 ($25x11). Accordingly, a total of $735 has been charged to petitioner's deposit account, as authorized.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an executed oath/declaration with the $65 late filing surcharge, an abstract, $395 for the statutory basic filing fee, and $275 for claims over 20; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Warner J. Delaune, Jr.
Baker, Donelson, Bearman, Caldwell & Berkowitz
301 N. Main Street
Suite 810
Baton Rouge, LA 70825

COPY MAILED

JUN 18 2008

OFFICE OF PETITIONS

In re Application of	:	
Jason R. Cooner et al.	:	
Application No. 10/696,388	:	DECISION ON PETITION
Filed: June 18, 2002	:	TO WITHDRAW
Attorney Docket No.	:	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 11, 2008.

The request is **APPROVED**.

A review of the file record indicates that Warner J. Delaune, Jr. of the firm Baker, Donelson, Bearman, Caldwell & Berkowitz: (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, all the attorneys associated with customer number 21184 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).

It is also noted that the oath and declaration filed on May 2, 2006 directed that all correspondence be mailed to customer number 21184. The office erroneously appointed attorneys associated with this customer number.

The correspondence address has been changed to the first named inventor and is copied below.

Applicant is reminded that there is no attorney of record at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Jason R. Cooner
Archetype, Inc.
2800 Milan Court
Suite 118
Birmingham, AL 35211

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
10/696,388	10/28/2003	Jason R. Cooner	9573-1

CONFIRMATION NO. 6368

POWER OF ATTORNEY NOTICE

OC000000030545291

21184
WARNER J DELAUNE JR
Baker Donelson Bearman Caldwell & Berkowitz
301 N. Main Street
Suite 810
Baton Rouge, LA 70825

Date Mailed: 06/18/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/11/2008.

- 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 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

DUGAN & DUGAN, P.C.
245 SAW MILL RIVER ROAD
SUITE 309
HAWTHORNE, NY 10532

COPY MAILED
MAR 09 2009
OFFICE OF PETITIONS

In re Application of	:	
Samantha S.H. Tan	:	
Application No.: 10/696,394	:	ON PETITION
Filed: October 28, 2003	:	
Attorney Docket No.: 10892-Y1	:	

This is a decision on the petition, filed March 6, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 13, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1792 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

MAILED

APR 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Ivkov et al.	:	DECISION ON PETITION
Application No. 10/696,399	:	TO WITHDRAW
Filed: October 28, 2003	:	FROM RECORD
Attorney Docket No. 134848.01301	:	

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 17, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Raymond A. Miller on behalf of all attorneys/agents of record who are associated with Customer Number 21269. All attorneys/agents associated with Customer Number 21269 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All correspondence will continue to be directed to the above-identified address, as the change of correspondence address section of the request was left blank.

There is an outstanding Office action, mailed March 25, 2010, which requires a reply. Failure to timely and properly do so will result in abandonment of the instant application.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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
10/696,404	10/28/2003	2171	2216	END920030031US1	30	86	6

CONFIRMATION NO. 7361

CORRECTED FILING RECEIPT

OC000000013424347

30449
SCHMEISER, OLSEN + WATTS
SUITE 201
3 LEAR JET
LATHAM, NY 12033

Date Mailed: 08/03/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Dennis J. Carroll, Houston, TX;

Assignment For Published Patent Application

International Business Machines Corporation, Armonk, NY;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/22/2004

Projected Publication Date: 04/28/2005

Non-Publication Request: No

Early Publication Request: No

Title

Algorithm for sorting bit sequences in linear complexity

Preliminary Class
707

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

5-7-2010

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,555,481
Ser. No. : ~~10/66,416~~ 10/696,416
Inventor(s) : Sanjay Verma
Issued : June 30, 200

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Stolowitz Ford Cowger LLP
621 SW Morrison St. Suite 600
Portland, OR 7205

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-20-06

TO SPE OF : ART UNIT 2653

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/606422 Patent No.: 6951026

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**.

Check Drawings

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: Corrected drawing was mailed within 3 months of notice of allowability, consistent with 37 CFR §1.85(c). Although no detailed explanation of the changes accompanied the replacement sheet as required by 37 CFR §1.121(d), the change is clear in view of the Examiner's objection to the drawing on August 9, 2004.

SPE

2607

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 8 2006

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THERAVANCE, INC.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO, CA 94080

In re Application of	:
Mathai Mammen et al	:
Serial No.: 10/696,464	: PETITION DECISION
Filed: October 29, 2003	:
Attorney Docket No.: P-142-US1	:

This is in response to the petition under 37 CFR 1.144, filed August 10, 2006, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on October 29, 2003, and contained claims 1-46. In a first Office action, mailed March 20, 2006, the examiner required restriction between the inventions claimed, as follows:

Group I – Claims 1-33, 39 and 44-46, drawn to compounds of formula I where p=1 and one of W, X, Y and Z is nitrogen or N→O and compositions thereof;
Group II – Claims 1-17, 20-24, 39 and 44-46, drawn to compounds of formula I where p=1 and two of W, X, Y and Z is nitrogen or N→O and compositions thereof;
Group III – Claims 1-19, 39 and 44-46, drawn to compounds of formula I where p=2 and one of W, X, Y and Z is nitrogen or N→O and compositions thereof;
Group IV – Claims 1-17, 39 and 44-46, drawn to compounds of formula I where p=2 and two of W, X, Y and Z is nitrogen or N→O and compositions thereof;
Group V – Claim 34, drawn to a compound of formula IV;
Group VI – Claim 35, drawn to a compound of formula V;
Group VII – Claim 36, drawn to compounds of formula VI;
Group VIII – Claim 37, drawn to compounds of formula VII;
Group IX, - Claim 38, drawn to compounds of formula VIII;
Group X, Claims 40-43, drawn to a method of treating a mammal with a muscarinic receptor antagonist.

An election of species was also required for whichever group was elected.

The examiner reasoned that the compounds of Groups I-IV differed in ring size and bonding arrangements and were patentably distinct. Groups V-IX were indicated as intermediates useful

iin forming the compounds of Groups I-IV but could be useful in making other compounds. Group X was argued as a method of use as opposed to the compounds and thus distinct therefrom.

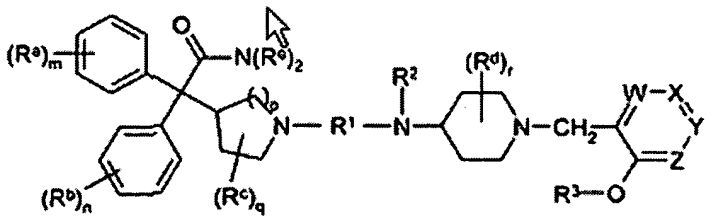
Applicants replied on March 28, 2006, adding claims 44-46 and electing the compounds of Group I with partial traverse with respect to Group II-IV only. Applicants argued that all of the compounds of Groups I-IV are encompassed by the generic formula of Claim I and that they should not be divided, relying on M.P.E.P. 803.02 and *In re Weber*. An election of a single species was also made.

The examiner mailed a new Office action to applicants on May 31, 2006, acknowledging the election of Group I and the species, and the partial traversal of the requirement with respect to Groups I-IV. The examiner maintained the requirement based on different classifications and search burden. The examiner, however, indicated potential rejoinder of Group X, to method claims, if the compound claims were determined to be allowable. The requirement was made Final. The examiner rejected claims 34-38 and 40 under 35 U.S.C. 112, second paragraph, as indefinite, and Claims 40-41 and 43 under first paragraph, as lacking enablement. Claims 44-46 were rejected for obvious double patenting over SN 10/888,855. Claims 1-6, 13-33, 39-41 and 43 were also rejected for obvious double patenting over SN 10/975,657 in view of SN 10/888,855; and claims 7-12, 30, 39-41 and 43 were rejected over the same references for different reasons.

This petition was filed on May 23, 2006, traversing the restriction requirement as being in error. Applicants also filed a reply in which claims 34-38, 40-43 and 46 were canceled and claim 39 was amended. And the rejection of record responded to. The examiner has not taken the case up for action at the present time.

DISCUSSION

Applicants' petition is directed only to the restriction between Groups I-IV as claims to Groups V-IX have been canceled and Group X is subject to rejoinder. All Groups are directed to the compounds of formula I as shown:



I

As set forth, the examiner based the restriction requirement of the four Groups on two variables, "p" and W, X, Y and Z, as a group. As can be seen from the structure above "p" determines the ring size of the nitrogen containing ring at five or six members, each of which would be separately classified. W, X, Y and Z also form a heterocyclic ring containing one or two nitrogens. Applicants argue that the above structure forms a proper Markush group and should

not be divided into bits and pieces for examination purposes. Applicants argue that all of the compounds have a common utility and share a substantial structural feature in common and are thus not separable. Applicants state that the 4-amino-1-(pyridylmethyl)piperidine compounds are all useful as muscarinic receptor antagonists. The utility is documented in the specification and elsewhere.

Applicants also argue that the compounds possess a common structure which differs only in that some compounds have an extra methylene unit in the ring structure. However, this is an important difference when searching the compounds. While applicants appear to indicate that these compounds are substituted piperidine compounds, based on the piperidine ring having the R^d variable, they could just as easily be considered to be 2,2,2-substituted ethylamide compounds wherein two phenyl and one pyrridyl or piperidyl rings are the substituents at the 2 position, each being further subustituted. In fact, the common or invariant structure is the substituted ethylamide, not the central piperidine ring. However there are two different ethyleamide structures, depending on the value of "p". The examiner has properly divided the compounds of the Markush based on this variable.

The examiner's invocation of the W, X, Y and Z group as a second variable is, however, improper as it is not a part of the common or core structure. Based on the above Groups I-IV are combined to form two Groups based on the value of "p". As applicants have elected Group I, where "p" has a value of 1, Groups I and II are combined as a single Group and Groups III and IV are combined as a single Group and Groups I and II (now Group I) will continue to be examined. Groups III and IV (now Group II) continue to be withdrawn from consideration. Group X will be considered for rejoinder should the claims of Group I be determined to be allowable.

DECISION

The petition is **GRANTED-IN-PART.**

The application will be forwarded to the examiner for consideration of applicants' reply filed August 10, 2006, and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George C. Elliott.
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT R HUSSEY CO., LPA
P O BOX 400
NORTH OLMSTED OH 44070-0400

MAILED

APR 14 2010

OFFICE OF PETITIONS

In re Patent No. 6,938,651	:	
Issue Date: September 6, 2005	:	
Application No. 10/696,466	:	ON PETITION
Filed: October 29, 2003	:	
Attorney Docket No. PTC-001-011	:	

This is a decision on the petition under 37 CFR 1.378(c), filed January 15, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Randall E. Carter) was ever given a power of attorney to act on behalf of inventors Alan R. Kahn and Kurt W. Allen, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

Terri Johnson
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **RANDALL E.CARTER**
3765 St. Johns Road
Lima, OH 45802

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

SEP 30 2009

OFFICE OF PETITIONS

CHERNOFF, VILHAUER, MCCLUNG & STENZEL, LLP
601 SWS SECOND AVENUE
SUITE 1600
PORTLAND, OR 97204-3157

In re Patent No. 7,008,167	:	
Issue Date: March 7, 2006	:	
Application No. 10/696,468	:	NOTICE
Filed: October 28, 2003	:	
Attorney Docket No. JEV/KAR:0041.0199	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060906

DATE : September 6, 2006

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6949649

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: Thomas McKenzie **Art Unit** 1625

Staple Here Only | Printer's Trim Line

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6949649

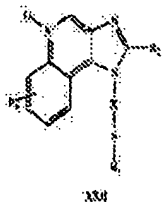
DATED: September 27, 2005

FIRST NAMED INVENTOR: BONK, JASON D.

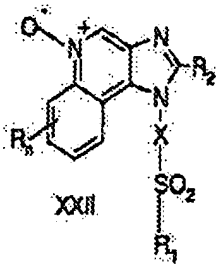
It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Cover page, page 2,
Other Publications, column 1, line 20, After "Chemistry," insert - - 11, - -;

Column 7-8,



XXI



XXII

Structure XXII, Delete " ", and insert - - - - therefore;

Column 10,
Line 6, Delete "XXVII" and insert - - XXVIII - -, therefore;

Column 21,
Line 26, Delete "subsuituents" and insert - - substituents - -, therefore;

Column 28,
Line 40, After "1.79 g" delete ";" and insert - - , - -, therefore;

Column 31,
Line 61, After "butyl]" delete "-H-" and insert - - -1H- - -, therefore;

MAILING ADDRESS OF SENDER:

OFFICE OF INTELLECTUAL PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
3M CENTER - P.O. BOX 33427
SAINT PAUL, MINNESOTA 55133-3427

PATENT NO. 6949649

No. of add'l copies: -0-
@ 50¢ per page

No add'l copies

20

Staple Here Only! | Printer's Trim Line

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6949649

DATED: September 27, 2005

FIRST NAMED INVENTOR: BONK, JASON D.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 40,
Line 16, Delete "N"" and insert - - N^4 - -, therefore;

Column 42,
Line 28, Delete "N4" and insert - - N^4 - -, therefore;
Line 44, After "10.37 mmol)" delete ";" ;
Line 59, After "Analysis" delete ":" and insert - - , - -, therefore;

Column 46,
Line 6, Delete "J6.8Hz;" and insert - - J=6.8 Hz, - -, therefore;
Line 33, Delete "N" and insert - - N^4 - -, therefore;
Line 59, Delete "ClN_4" and insert - -ClN_4 - -, therefore;

Column 47,
Line 67, After "(m, 4H)," insert - - δ - - ;

Column 49,
Line 14, After "amine" insert - - (- - ;

Column 54,
Line 67, After "J=7.5 Hz, 2H)" insert - - ; - - ;

Column 55,
Line 36, After "J=7.5 Hz, 2H)" insert - - ; - - ;

Column 56,
Line 28, After "J=7.2 Hz, 3H)" insert - - ; - - ;
Line 67, After "(t, J=7.2 Hz, 3H)" insert - - ; - - ;

MAILING ADDRESS OF SENDER:

OFFICE OF INTELLECTUAL PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
3M CENTER - P.O. BOX 33427
SAINT PAUL, MINNESOTA 55133-3427

PATENT NO. 6949649

No. of add'l copies: - 0 -
@ 50¢ per page

No add'l copies

Staple Here Only! | Printer's Trim Line

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6949649

DATED: September 27, 2005

FIRST NAMED INVENTOR: BONK, JASON D.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 57,
Line 62, After "DMSO-" delete "d6)" and insert - - d_6) - -, therefore;

Column 59,
Line 3, After "DMSO-" delete "d6)" and insert - - d_6) - -, therefore;
Line 29, Delete "14.54 mmol" and insert - - 14.54 mmol - -, therefore;

Column 62,
Line 60, After "16.52" insert - - ; - - ;

Column 64,
Line 5, After "[4,5-c]quinolin" insert - - -4-amine - - ;

Column 67-68,
Example 46, Line 4, After "N," delete "[]" ;

Column 71,
Example 53, Line 4, Delete "J 7.2Hz," and insert - - J=7.2Hz, - -, therefore;

Column 73,
Example 61, Line 1, Delete "$C_{19}H_{26}N_{45}$" and insert - - $C_{19}H_{26}N_4S$ - -, therefore;

Column 78,
Line 60, After "$C_{18}H_{24}N_4O_2S$" delete "." and insert - - • - -, therefore;
Line 64, Delete "J7.2 Hz," and insert - - J=7.2 Hz, - -, therefore;
Line 66, After "1.68 (m, 2 H)" insert - - , - - ;

MAILING ADDRESS OF SENDER:

OFFICE OF INTELLECTUAL PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
3M CENTER - P.O. BOX 33427
SAINT PAUL, MINNESOTA 55133-3427

PATENT NO. 6949649

No. of add'l copies: -0-
@ 50¢ per page

No add'l copies

Staple Here Only!

Printer's Trim Line

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6949649

DATED: September 27, 2005

FIRST NAMED INVENTOR: BONK, JASON D.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 79,
Line 64, After "(t, J=6.6 Hz, 1 H)" delete ";" and insert - -, - -, therefore;

Column 80,
Line 41, Delete "Celite®D" and insert - - Celite® - -, therefore;

Column 82,
Line 36, After "$C_{20}H_{22}N_5S$" delete "." and insert - - • - -, therefore;

Column 83,
Line 9, After "$C_{20}H_{22}N_6O_2$" delete "." And insert - - • - -, therefore;

Column 84,
Line 28, Delete "$C_{17}H_26N_4O_2S$" and insert - - $C_{17}H_{26}N_4O_2S$ - -, therefore;

Column 87,
Line 41, Delete "260 FL" and insert - - 260 µL - -, therefore;
Line 62, After "$C_{21}H_{25}FN_4O_2S$" delete "." and insert - - • - -, therefore;

Column 89,
Line 41, After "(t, 3 H" delete ")" and insert - -, - -, therefore.

MAILING ADDRESS OF SENDER:

OFFICE OF INTELLECTUAL PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
3M CENTER - P.O. BOX 33427
SAINT PAUL, MINNESOTA 55133-3427

PATENT NO. 6949649

No. of add'l copies: - 0 -
@ 50¢ per page

No add'l copies

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Dec-07

CHARLES G. CALL
215 W. HURON ST APT 2
CHICAGO IL 60610-3331

COPY MAILED

DEC 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	
Application Number: 10/696482	:	DECISION ON PETITION
Filing Date: 10/29/2003	:	
Attorney Docket Number: D-19	:	

This is a decision on the petition filed on October 29, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on March 30, 2007, for failure to properly respond to the non-final Office action mailed on December 29, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on October 5, 2007.

Petitioner has filed an amendment 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 2163 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BOWDITCH & DEWEY, LLP
311 MAIN STREET
P.O. BOX 15156
WORCESTER MA 01615-0156

COPY MAILED
SEP 19 2006
OFFICE OF PETITIONS

In re Patent No. 6,933,847 :
Issue Date: August 23, 2005 :
Application No. 10/696,483 : ON PETITION
Filed: October 29, 2003 :
Attorney Docket No. 303874.3011-100 :

This is a decision on the petition filed on May 2, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of Certificate of Correction.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

Petitioners did not submit a request for a certificate of correction (accompanied by the fee set forth in 37 CFR 1.20(a)) with the present request pursuant to 37 CFR 3.81(b). Accordingly, the request is **dismissed** without prejudice upon the filing of a renewed petition under 37 CFR 3.81(b), including a request for a certificate of correction.

The Office will charge the $100.00 certificate of correction fee to Deposit Account No. 50-1935, as authorized.

[1] *See* Official Gazette of June 22, 2004.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BOWDITCH & DEWEY, LLP
311 MAIN STREET
P.O. BOX 15156
WORCESTER MA 01615-0156

COPY MAILED
DEC 0 6 2006
OFFICE OF PETITIONS

In re Patent No. 6,933,847 :
Issue Date: August 23, 2005 :
Application No. 10/696,483 : ON PETITION
Filed: October 29, 2003 :
Attorney Docket No. 303874.3011-100 :

This is a decision on the renewed petition under 37 CFR 3.81(b) filed on October 4, 2006, to correct the assignee on the front page of the above-identified patent by way of a certificate of correction.

The request is **granted**.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of the certificate of correction.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MACCORD MASON PLLC
300 N. GREENE STREET, SUITE 1600
P.O. BOX 2974
GREENSBORO, NC 27402

COPY MAILED
AUG 29 2006
OFFICE OF PETITIONS

In re Application of Smith et al. :
Application No. 10/696,484 : Decision on Petition
Filing Date: October 29, 2003 :
Attorney Docket No. 2250-13A :

This is a decision on the petition, filed November 25, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 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. As a result, 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 the above statute and 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. The application was published on July 27, 2006.

Technology Center Art Unit 1762 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

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.
10/696,505	10/30/2003	Yasuo Takebe	61352-046	5764

7590 04/14/2010
MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER
ALEJANDRO, RAYMOND

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
04/14/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

wk

Mailed : APR 1 4 2010

In re Application of
Takebe et al.
Serial No. 10/696,505
Filed: October 30, 2003
For: METHOD OF OPERATING FUEL CELL SYSTEM AND FUEL CELL SYSTEM

DECISION ON PETITION

This is a decision on Appellants' Petition under 37 CFR 1.181 to request that the Notice of Non-Compliant Appeal Brief dated March 1, 2010 be withdrawn. The Examiner considered the Brief filed on January 6, 2010 to be defective because the Brief does not contain a concise explanation of each independent claim which refers to the specification by page and line number.

The Appeal Brief filed on January 6, 2010 is considered compliant.

DECISION

The petition is **GRANTED**.

The Examiner is directed to allow the application to proceed in the appeal process and to have the Notice of Non-Compliance withdrawn.

/JACQUELINE STONE/

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Michael E. Fogarty
MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington DC 20005-3096

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

COPY MAILED

FEB 13 2007

OFFICE OF PETITIONS

In re Application of

Allen Samuels
Application No. 10/696,507
Filed: October 29, 2003
Attorney Docket No. 23447-09297

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 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 Robert A. Hulse on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Allen Samuels**
5971 Foligno Way
San Jose, CA 95138

cc: **Choate, Hall & Stewart**
Two International Place
Boston, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/696,507	10/29/2003	Allen Samuels	23447-09297

CONFIRMATION NO. 5753

OC000000022479477

OC000000022479477

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 02/13/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/18/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jul-06

SHOOK, HARDY & BACON LLP
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BLVD
KANSAS CITY MO 64108-2613

COPY MAILED
JUL 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Hobb et al.	:	
Application No. 10/696,513	:	DECISION ON PETITION
Filed: 29 October, 2003	:	
Atty Docket No. LGPL.110511	:	

This is a decision on the petition filed on 7 June, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 13 March, 2006, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 12 December, 2005, which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

Receipt of the issue and publication fees is acknowledged.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

O'MELVENY & MYERS LLP
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-28

COPY MAILED

JUN 23 2005

OFFICE OF PETITIONS

In re Application of :
Martin D. Pierson, et al. :
Application No. 10/696,530 : ON PETITION
Filed: October 29, 2003 :
Attorney Docket No. 510685-171 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed October 4, 2004. The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

The application file is being forwarded to Technology Center AU 3723, for further processing of the request for continued examination under 37 CFR 1.114 filed March 11, 2005.

Sherry D. Brinkley
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

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

MAILED

OCT 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Xunming Deng	:	
Application No. 10/696,545	:	DECISION GRANTING PETITION
Filed: October 29, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03026/PHYS00402	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 15, 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 September 29, 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 concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1795 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.*

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

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

Mail Date: 04/21/2010

Applicant	: Xunming Deng	: DECISION ON REQUEST FOR
Patent Number	: 7667133	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/696,545	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1251** 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

DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

COPY MAILED

AUG 20 2007

OFFICE OF PETITIONS

In re Application of :
Eric R. Fossum :
Application No. 10/696,560 :
Filed: October 30, 2003 :
Attorney Docket No. M4065.0629/P629

ON PETITION

This is a decision on the petition, filed August 15, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 24, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

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 concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

COPY MAILED

MAR 1 9 2007

OFFICE OF PETITIONS

In re Application of

Kazuhiro Nagao

Application No. 10/696,579

Filed: October 30, 2003

Attorney Docket No. 492322014600

: DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), November 9, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed March 28, 2005. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on June 29, 2005. A Notice of Abandonment was mailed on October 25, 2005.

The issue fee and publication fee were received on November 9, 2006.

Form PTOL-85B, filed November 9, 2006, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Marko Vehkamaki	: DECISION ON REQUEST FOR
Patent Number	: 7618681	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/696,591	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **560** 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 : April 11, 2006

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/696598 Patent No.: 6,983,538

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: _____

PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
SPE

3729
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

COPY MAILED
MAY 25 2004
OFFICE OF PETITIONS

In re Application of
Se-Jin Ahn et al.
Application No. 10/696,615
Filed: October 28, 2003
Attorney Docket No. 5649-1202
Title: SEMICONDUCTOR MEMORY DEVICES HAVING OFFSET TRANSISTORS AND METHODS OF FABRICATING THE SAME

DECISION ON PETITION
UNDER 37 C.F.R. §1.10(C)

This is a decision on the petition under 37 C.F.R. §1.10(c), submitted on February 12, 2004, requesting that the application be accorded a filing date of October 28, 2003.

Shortly after October 28, 2003, the above-identified application was received in the Office. The Office of Initial Patent Examination then mailed petitioner's filing receipt, which indicated that the application had been accorded a filing date of October 29, 2003.

In response, on February 12, 2004, applicants filed the present petition. Petitioners have included a copy of the Express Mail Label having a number of EV353593238US[1]. Applicants request that the application be accorded a filing date of October 28, 2003.

1 The Utility Patent Application Transmittal sheet has been located in the electronic file, and it is noted that it contains this same Express Mail label number.

Petitioner has alleged that the application was deposited on October 28, 2003, and the Patent Office has incorrectly assigned a filing date of October 29, 2003 to the instant application.

Regarding the Express Mail label, it is noted that the label contains a "date-in" of October 28, 2003. A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. Petitioner has provided a print-out form the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) which establishes that the application was deposited on October 28, 2003.

Although the application received a filing date of October 29, 2003, the evidence is convincing that the application papers were filed on October 28, 2003, and the Patent Office assigned the incorrect date to the application. Therefore, the application was entitled to a filing date of October 28, 2003.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 28, 2003, as well as the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

COPY MAILED

NOV 0 2 2004

OFFICE OF PETITIONS

Applicant: Ahn et al.
Appl. No.: 10/696,615
Filing Date: October 28, 2003
Title: SEMICONDUCTOR MEMORY DEVICES HAVING OFFSET TRANSISTORS AND METHODS OF FABRICATING THE SAME
Attorney Docket No.: 5649-1202
Pub. No.: US 2004/0084698 A1
Pub. Date: May 6, 2004

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on May 27, 2004, for the above-identified application.

The request is granted.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice).

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.: X

DATE : November 26,2007

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/696,615 Patent No.: 7282761 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: _____

LYNNE GURLEY
SUPERVISORY PATENT EXAMINER

Lynne A. Gurley AU 2811

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NETWORK APPLIANCE/BLAKELY
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

COPY MAILED

FEB 2 1 2008

OFFICE OF PETITIONS

In re Application of

HERBST, et al.
Application No. 10/696,624
Filed: October 28, 2003
Attorney Docket No. **00121-002900000**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 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 Jordan M. Becker 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: **RYAN T. HERBST**
735A SAPPHIRE STREET
REDWOOD CITY, CA 94061

cc: **LELAND WEISNER**
WEISNER & ASSOCIATES
366 CAMBRIDGE AVENUE
PALO ALTO, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PAUL C. HAUGHEY
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

MAY 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Herbst et al.	:	DECISION ON PETITION
Application No. 10/696,624	:	TO WITHDRAW
Filed: October 28, 2003	:	FROM RECORD
Attorney Docket No. 00121-002900000	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 16, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on January 31, 2006 the power of attorney to Townsend and Townsend and Crew, LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Network Applications
495 E. Java Drive
Sunnyvale CA 94089

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED

JAN 20 2006

OFFICE OF PETITIONS

MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

In re Application of
Brian K. McMillin, et al.
Application No. 10/696,628
Filed: October 28, 2003
Attorney Docket No. LAM2P431

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed November 3, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on 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 petition is 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 April 27, 2006 accompanies this decision on petition.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on September 15, 2005. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. In view of the rescinding of the nonpublication request, the $300 publication fee is due. Accordingly, a Notice of Publication Fee Due has been included with this decision. **Petitioner should note that payment of the publication fee is required to be filed within the period set forth in the Notice to avoid abandonment of the application.**

This application is being forwarded to Publishing Division to await a reply to the above mentioned Notice of Publication Fee Due.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENTS:

(1) Notice Regarding Rescission of Nonpublication Request
(2) Notice Of Publication Fee Due

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAR 1 0 2008

OFFICE OF PETITIONS

BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

In re Application of
Brian T. Rosenberger, et al.
Application No. 10/696,631
Filed: October 29, 2003
Attorney Docket No. TA-00449

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 13, 2007.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before October 16, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed July 14, 2006, which set a statutory period for reply of three (3) months. A Notice of Abandonment was mailed on November 15, 2006. On November 13, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,440 issue fee and the $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

JUN 2 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: Uchiumi, et al.
Application No. 10/696,663
Filed: 28 October 2003
For: APPARATUS OF STORAGE UNIT, AND METHOD OF CONTROLLING THE CONTROL APPARATUS OF STORAGE UNIT

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed 28 January 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner 6/16/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

UNITED STATES 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

COPY MAILED

AUG 06 2009

OFFICE OF PETITIONS

In re Patent No. 7,521,591	:	
Ivarie, et al.	:	DECISION DISMISSING
Application No. 10/696,671	:	REQUEST FOR
Issue Date: April 21, 2009	:	RECONSIDERATION OF
Filed: October 28, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705(d)
021396-000203US	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)," filed May 15, 2009. Patentees request that the determination of patent term adjustment be corrected from one hundred and one (101) days to two hundred seventeen(217) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 101 days.

BACKGROUND

This application was filed on October 28, 2003. On February 21, 2007, a request for continued examination (RCE) was filed. On February 2, 2009, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date is 101 days[1]. On April 21, 2009, the application matured into U.S. Patent No. 7,521,591, with a revised patent term adjustment of 101 days. The Office determined that the 116 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR

[1] 224 days of Office delay was reduced by 123 days of applicant delay for a patent term adjustment of 101 days. No request for reconsideration of this initial determination was filed.

1.702(b)[2,3] overlaps with the 224 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[4,5] accorded prior to the filing of the request for continued examination. As such, the Office allowed only entry of the adjustment of 224 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 123 days, the patent issued with a revised patent term adjustment of 101 (224 - 123) days.

On May 15, 2009, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 217 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert

---

[2] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

[3] As of the filing of the RCE on February 21, 2007, the application was pending three years and 116 days.

[4] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[5] A first Office action was not mailed until August 9, 2005, fourteen months and 224 days after the application's filing date, October 29, 2006.

that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 340 (224 + 116) days as these periods do not occur on the same day. Further, given the applicant delay of 123 days, patentees assert entitlement to 217 (340 - 123) days of patent term adjustment.

OPINION

Patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[6] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C.

---

[6] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

> 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), October 28, 2003, and ending on the date of filing of a request for continued examination (RCE), February 21, 2007(not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does

not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 224 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. There were no Office delays subsequent to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 116 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 116 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 224 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 224 days and the 116 days is neither permitted nor warranted. 224 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 0 days of patent term adjustment, having considered the 116 days of Office delay under the three-year pendency provision.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 101 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Attorney Shirene Willis Brantley, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

APR 23 2010

OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Patent of Ivarie et al.	:	DECISION ON REQUEST
Patent No. 7,521,591	:	FOR
Issue Date: April 21, 2009	:	RECONSIDERATION OF
Application No. 10/696,671	:	PATENT TERM ADJUSTMENT
Filed: October 28, 2003	:	and
Docket No.021396-000203US.	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the reconsideration petition filed on October 6, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two hundred seventeen (217) 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 two hundred seventeen(217) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on October 29, 2006 and ends on February 20, 2007, the day before the RCE was filed, and is 115 (not 116) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 216, not 217 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Change of Correspondence Address filed March 10, 2009 was not entered and made of record because the individual who submitted it is not an attorney of record. A courtesy copy of this decision will be mailed to the address listed on the petition. Until appropriate change of address/power of attorney documents are filed, all future correspondence will be mailed solely to the address of record.

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 **two hundred sixteen (216)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

CC: KYLE YESLAND
SYNAGEVA BIOPHARMA CORP.
111 RIVERBEND ROAD
ATHENS GA 30605

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,521,591 B2

DATED : **April 21, 2009** **DRAFT**

INVENTOR(S) : Ivarie 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 101 days

Delete the phrase "by 101 days" and insert – by 216 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:100405

DATE : October 4, 2005

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6921826

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:

Cecilia Tsang

SPE: Cecilia Tsang **Art Unit** 1625

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

COPY MAILED
NOV 07 2006
OFFICE OF PETITIONS

In re Application of :
Hasegawa, et al. :
Patent No. 7,033,843 : ON PETITION
Issue date: April 25, 2006 :
Application No. 10/696,702 :
Filed: October 30, 2003
Attorney Docket No. 061063-0306592

This is a decision on the petition, filed, July 5, 2006, under 37 CFR 3.81(b) to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignees names are Mitsubishi Materials Silicon Corporation and Taiyo Nippon Sanso Corporation and that an incorrect assignee's name was unintentionally included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Mitsubishi Materials Silicon Corporation and Taiyo Nippon Sanso Corporation are the assignees of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), the petition is granted.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3230. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

AUG 29 2007

OFFICE OF PETITIONS

Morrison & Foerster LLP
Suite 300
1650 Tysons Blvd.
Mclean, VA 22102

In re Application of	:	
Eric C. Hannah	:	
Application No. 10/696,703	:	DECISION ON PETITION
Filed: October 29, 2003	:	TO WITHDRAW
Attorney Docket No. 070702006210	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on August 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **DARBY & DARBY P.C.**
P.O. BOX 770
Church Street Station
New York NY 10008-0770

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

G BRIAN PINGEL
BROWN, WINICK, GRAVES, GROSS, BASKERVILLE
REGENCY WEST 5
4500 WESTOWN PARKWAY STE. 277
WEST DES MOINES, IA 50266

COPY MAILED
MAY 3 1 2006
OFFICE OF PETITIONS

In re Application of Ming	:	
Application No. 10/696,707	:	Decision on Petition
Filing Date: October 29, 2003	:	
Attorney Docket No. 6447	:	

This is a decision on the petition filed March 27, 2006, under 37 CFR 1.181, or in the alternative, under 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **granted.**

The petition under 37 CFR 1.137(b) is **dismissed as moot.**

Facts:

A Notice of Allowance was mailed on May 20, 2005. The Notice required payment of $700 for the issue fee and did not require payment of a publication fee. The Notice set a statutory period for reply of three (3) months.

An Issue Fee Transmittal Form ("Form 1") and check ("Check 1") appear to have been mailed to the Office on August 17, 2005. The Certificate of Mailing is dated August 17, 2005, but is unsigned.

An Issue Fee Transmittal Form ("Form 2") and check[1] ("Check 2") were mailed to the Office on August 18, 2005.

The Office received Form 1 and Check 1 on August 19, 2005.

The Office received Form 2 and Check 2 on August 23, 2005.

The Office is not authorized to accept a total of $1,400 for the issue fee when the amount owed is $700. Therefore, per language on Form 2, the second payment of $700 was credited to petitioner's deposit account.

Petitioner's bank subsequently failed to honor Check 1.

[1] The check number for Check 1 was 061179. The check number for Check 2 was 061216.

A Notice of Abandonment was mailed on February 22, 2006.

Discussion:

Form 1 was received on August 19, 2005. Form 1 authorized the Office to charge any necessary fees to petitioner's deposit account. On August 19, 2005, petitioner's deposit account had a balance of $2,700. Therefore, even though the first check bounced, the issue fee was timely paid since the Office had the authority to charge the fee to petitioner's deposit account on August 19, 2005.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition under 37 CFR 1.181 to withdraw the holding of abandonment has been granted, the petition under 37 CFR 1.137(b) is unnecessary. Therefore, the petition under 37 CFR 1.137(b) is dismissed as moot. A fee has not been charged for the petition under 37 CFR 1.137(b).

The Office has charged $700 to petitioner's deposit account in order to recover the $700 applied to the deposit account.

Since petitioner has not proven that Check 1 did not "bounce," the Office will charge the $50 processing fee for payments not honored by a bank to petitioner's deposit account.

The Office of Initial Patent Examination will be informed of the instant decision and the application will be issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

COPY MAILED

JAN 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Keating et al. :
Application No. 10/696,708 : NOTICE
Filed: October 30, 2003 :
Attorney Docket No. 2323-164 :

This is a notice regarding your letter received November 30, 2004, notifying the Office of loss of entitlement to small entity status and requesting acceptance of a fee deficiency submission as provided for in 37 CFR 1.28.

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.

The instant request included an itemization and payment of $405 for the deficiency in payment of the statutory basic filing fee.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Payment of the deficiency has been treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

The application is being returned to the Office of Initial Patent Examination (OIPE) for completion of pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110

MAILED

JUN 08 2010

OFFICE OF PETITIONS

In re Application of
MERRILL, Edward W. et al.
Application No. 10/696,709
Filed: October 30, 2003
Attorney Docket No. **00952-8080**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 12, 2010

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **PERKINS COIE LLP**
607 FOURTEENTH STREET, NW
WASHINGTON, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

JUL 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Berna Erol, et al.	:	
Application No. 10/696,735	:	DECISION GRANTING PETITION
Filed: October 28, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 015358-009440US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 10, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 8, 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 2624 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.*

UNITED STATES 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

COPY MAILED

JUL 2 0 2009

OFFICE OF PETITIONS

In re Application of	:
Erol, et al.	: LETTER REGARDING
Application No. 10/696,735	: PATENT TERM ADJUSTMENT
Filed: October 28, 2003	:
Atty. Dkt. No.: 015358-009440US	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)," filed January 8, 2009. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be increased from 1,377 days to 1,472 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed October 8, 2008, stated that the patent term adjustment (PTA) to date is 1,377 days. The instant application for patent term adjustment and issue fee payment were timely filed January 8, 2009.

However, prior to a decision on the application for patent term adjustment being rendered, on July 13, 2009, the application was withdrawn from issue.

In view thereof, a decision is being held in abeyance until after the mailing of any new Notice of Allowance and/or Notice of Allowability and the filing (or resubmission) of any application for patent term adjustment under 37 CFR 1.705(b). A new determination of patent term adjustment will accompany any new Notice of Allowance and will include any further adjustments or reductions accrued to date. Applicant must submit a timely application for patent term adjustment in response to any new Notice of Allowance. An application for patent term adjustment under 37 CFR 1.705(b) is properly filed after the mailing of the Notice of Allowance on which the application issues and prior to payment of the issue fee (or a request for reapplication of the issue fee) in response to that Notice. A copy of this decision should accompany the application for patent term adjustment, along with a request to apply the fee set forth in 37 CFR 1.18(e) paid on February 29, 2008.

Technology Center AU 2624 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for further processing.

Telephone inquiries specific to 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Jason Bartell	: DECISION ON REQUEST FOR
Patent Number	: 7656406	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/696,740	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1203** 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 : 6-22-05

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction on Patent No.: 6853893

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.

Check Drawings

Thank You For Your Assistance

Ennis Young
Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

No new matter has been added. Minor corrections in the specification not affecting the scope.
GAJ

G. ARTHUR-JEANGLAUDE — **SPE**

2144 — **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

RENNER OTTO BOISSELLE & SKLAR
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND OH 44115

COPY MAILED
NOV 30 2006
OFFICE OF PETITIONS

In re Application of	:
Dan Coppus et al	:
Application No. 10/696,746	: DECISION GRANTING PETITION
Filed: October 29, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. RANPP0346USA	:

This is a decision on the petition under 37 CFR 1.137(b), filed July 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 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 of December 23, 2005, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3721.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DUANE MORRIS LLP
IP DEPARTMENT
ONE LIBERTY PLACE
PHILADELPHIA, PA 19103-7396

COPY MAILED

AUG 24 2005

OFFICE OF PETITIONS

In re Application of :
John F. Porter :
Application No. 10/696,751 : ON PETITION
Filed: October 29, 2003 :
Attorney Docket No. 11277-0039 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 17, 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 August 18, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020 extension of time submitted with the petition on July 5, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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 1733 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPARTMENT
920 DISC DRIVE, MS/SV15B1
SCOTTS VALLEY, CA 95066-4544

COPY MAILED

JUL 26 2007

OFFICE OF PETITIONS

In re Application of :
Jeffry A. Leblanc :
Application No. 10/696,755 : ON PETITION
Filed: October 29, 2003 :
Attorney Docket No. STL 3281 :

This is a decision on the petition filed February 27, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed October 26, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 27, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPARTMENT
920 DISC DRIVE, MS/SV15B1
SCOTTS VALLY, CA 95066-4544

COPY MAILED

JUL 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Jeffry A. Leblanc	:	
Application No. 10/696,755	:	DECISION ON PETITION
Filed: October 29, 2003	:	TO WITHDRAW
Attorney Docket No. STL 3281	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed May 9, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Peter J. Yim 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 above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Stephen C. Durant
Novak Druce + Quigg LLP
Spear Street Tower – 35th Floor
One Market Plaza
San Francisco, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SENNIGER POWERS
ONE METROPOLITAN SQUARE
16th FLOOR
ST LOUIS, MO 63102

COPY MAILED

AUG 01 2006

OFFICE OF PETITIONS

In re Patent No. 7,078,433	:	
Wuthier et al.	:	
Issue Date: July 18, 2006	:	
Application No. 10/696,760	:	LETTER REGARDING
Filed: October 29, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. USO 4571.3	:	

This is in response to the "LETTER REGARDING ERROR IN PATENT TERM ADJUSTMENT," filed July 18, 2006. Patentees assert that because a terminal disclaimer was filed in this application no Patent Term Adjustment should be awarded.

The request for correction of the patent term adjustment (PTA) is **DISMISSED**.

Patentees are given **thirty (30) days** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

35 U.S.C. 154(b)(2)(B) provides that:

> 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.

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.

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. Nor does the Office 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 this letter was submitted as an attempt to advise the Office of an error in Patentees' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KING & SPALDING LLP
1180 PEACHTREE STREET
ATLANTA GA 30309-3521

COPY MAILED

SEP 17 2007

OFFICE OF PETITIONS

In re Application of
Kary Mullins
Application No. 10/696,770
Filed: October 29, 2003
Attorney Dkt No.: 13139-0103

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 17, 2007[1] and supplemented on May 21, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to file a proper reply to a non-final Office Action mailed September 12, 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 December 13, 2006. A Notice of Abandonment was mailed on May 4, 2007.

This petition is hereby **GRANTED**.

Petitioner submitted a request for a three (3) month extension of time 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 extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988) Petitioner's six (6) month maximum extendable period expired on June 29, 2006. Petitioner is ineligible for any extensions of time. Thus, the credit card will be credited with the $510.00 submitted to obtain the three month extension of time. A duplicate petition fee in the amount of $750 will also be refunded.

The Office hereby acknowledges the receipt of the amendment submitted with the instant petition.

---

[1]The petition submitted on May 17, 2007 was not signed .

This application is being referred to Art Unit 1644 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

COPY MAILED
JAN 2 6 2010

In re Application of	:	
Gunawardena et al.	:	
Application No. 10/696,780	:	DECISION ON PETITION
Filed: October 28, 2003	:	
Attorney Docket No. MS1-1635US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 9, 2009 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 27, 2009, as required by the Notice of Allowance and Fee(s) Due mailed July 27, 2009. Accordingly, the application became abandoned on October 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Petitioner should note that the petition fee of $1,620 will be charged to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571)272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

Chris Bottorff
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

Shumaker & Sieffert, P. A.
8425 Seasons Parkway, Suite 105
St. Paul, MN 55125

COPY MAILED

DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey M. Sieracki, et al.	:	
Application No. 10/696,781	:	DECISION GRANTING
Filed: October 29, 2003	:	PETITION
Attorney Docket No. 1023-224US01	:	

This is a decision on the petition filed November 25, 2003, requesting that the above-identified application be accorded a filing date of October 29, 2003, rather than the presently accorded date of October 28, 2003, as shown on a recently received postcard receipt. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Petitioner alleges that the application was deposited in Express Mail Service on October 29, 2003. In support, the petition is accompanied by a copy of Express Mail receipt No. ET987500466US, showing a "date-in" of October 29, 2003, and a copy of a USPS sales receipt for the same Express Mail label number dated October 29, 2003. The same Express Mail receipt number was referred to in the original application papers found in the file.

The Office considers the date the paper or fee shown as deposited as "Express Mail" to be the "date-in" on the Express Mail label. See MPEP 513. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on October 29, 2003.

This application file is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of October 29, 2003 and mailing of a corrected filing receipt.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent Counsel
Applied Materials, Inc.
P. O. Box 450A
Santa Clara, CA 95052

COPY MAILED

JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Richard D. Goldberg, et al. :
Application No. 10/696,782 : ON PETITION
Filed: October 29, 2003 :
Attorney Docket No. 8446P01 USA :

This is a decision on the petition under 37 CFR 1.137(b), filed June 29, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue and publication fees.

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 and publication fees; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of the issue and publication fees, which were submitted with the petition.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

Marianne E. Jenkins
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

PATENT COUNSEL
APPLIED MATERIALS, INC.
POST OFFICE BOX 450A
SANTA CLARA, CA 95052

COPY MAILED
JUL 1 0 2006
OFFICE OF PETITIONS

In re Application of	:
Richard David Goldberg et al	:
Application No. 10/696,782	: DECISION GRANTING PETITION
Filed: October 29, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 844P01 USA	:

This is a decision on the petition, filed August 4, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED,** *nunc pro tunc.*

The file record discloses that a first Notice of Allowance and Fee(s) Due was mailed on March 22, 2005. On June 29, 2005, petitioner submitted a petition to revive under the unintentional provisions of 37 CFR 1.137(b) and payment of the issue fee. The petition to revive was granted on July 15, 2005. Thereafter, on August 4, 2005, petitioner filed a petition to withdraw from issue, a Request for Continued Examination and an Information Disclosure Statement.

It is noted that, although the petition to withdraw from issue had not been acted upon by the appropriate deciding official of the U.S. Patent and Trademark Office, the Technology Center processed the request for continued examination (RCE) under 37 CFR 1.114 and subsequently issued a new Notice of Allowance and Fee(s) Due and Notice of Allowability on August 25, 2005. Where an issue fee has been paid and an RCE is subsequently filed, the RCE is not a proper filing unless a petition to withdraw from issue has been granted. Therefore, the examiner was without authority to act further in the case absent a grantable petition withdrawing the application from issue. Nevertheless, in view of this decision on petition, the RCE is now considered a proper filing and the actions of the examiner taken thereafter are hereby ratified.

The file record of this case discloses that Part B - Fee(s) Transmittal form was received on November 28, 2005 (certificate of mailing date of November 23, 2005) in reply to the August 25, 2005 Notice of Allowance. Accordingly, this matter is being referred to Publishing Division for appropriate processing in the normal course of business.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUINTERO LAW OFFICE
1617 BROADWAY, 3RD FLOOR
SANTA MONICA, CA 90404

COPY MAILED

AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Cheng Chung Wang	:	
Application No. 10/696,793	:	ON PETITION
Filed: October 30, 2003	:	
Attorney Docket No. 10111393	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 3600, Art Unit 3679.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUINTERO LAW OFFICE
1617 BROADWAY, 3RD FLOOR
SANTA MONICA, CA 90404

COPY MAILED

AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Cheng Chung Wang	:	
Application No. 10/696,794	:	ON PETITION
Filed: October 30, 2003	:	
Attorney Docket No. 10111395	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 3600, Art Unit 3679.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

MAILED

MAR 15 2010

OFFICE OF PETITIONS

In re Patent No. 7,072,095	:	
Issue Date: July 4, 2006	:	
Application No. 10/696,805	:	NOTICE
Filed: October 29, 2003	:	
Attorney Docket No. 07783.0082.NPUS00	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

A. Kelley

Alicia Kelley
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

QUINTERO LAW OFFICE
1617 BROADWAY, 3RD FLOOR
SANTA MONICA, CA 90404

COPY MAILED

MAY 27 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Cheng Chung Wang	:	
Application No. 10/696,812	:	
Filed: October 30, 2003	:	
Attorney Docket No. 10111396	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed January 27, 2005.

37 CFR 1.28(c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby accepted.

The change of status to a large entity has been entered and made of record.

This application will be returned to Technology Center 3600.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW May-05

QUINTERO LAW OFFICE
1617 BROADWAY, 3RD FLOOR
SANTA MONICA CA 90404

FAX RECEIVED

MAY 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Cheng Chung Wang	:	
Application No. 10/696,813	:	ON PETITION
Filed: 30 October, 2003	:	
Atty Docket No. 10111394	:	

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 27 January, 2005.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

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.**

Small entity status will no longer apply.

The file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

COPY MAILED
NOV 0 1 2005
OFFICE OF PETITIONS

In re Application of	:	
Patel, et al.	:	DECISION ON PETITION
Application No. 10/696,821	:	
Filed: October 30, 2003	:	
Docket No.: 038190/270418	:	

This is a decision on the petition to revive under 37 CFR 1.137(a), filed October 12, 2005. This matter is also being treated *sua sponte* under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

This application was held abandoned June 26, 2005 for failure to timely response to the non-final Office action mailed March 25, 2005. The non-final Office action set a three month shortened statutory period of time for reply. A response and a petition for extension of time were submitted September 28, 2005. Notice of Abandonment was mailed September 30, 2005.

DECISION UNDER 37 CFR 1.181

Petitioner asserts that a response to the non-final Office action was timely submitted September 26, 2005 and that the response bore a certificate of mailing in accordance with 37 CFR 1.8.

A review of the application file reveals that a response to the non-final Office action was received September 28, 2005 and that the response did bear a certificate of mailing in accordance with 37 CFR 1.8. Accordingly, the response will be considered timely as it complies with the requirements of 37 CFR 1.8(b) in that (1) the Office was promptly informed of the previous timely mailing, (2) a copy of the previously submitted correspondence with certificate of transmission thereon has been supplied, and (3) statements attesting to the previous timely transmission have been submitted.

In view thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

DECISION UNDER 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 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).

In view of the withdrawal of abandonment, the petition to revive under 37 CFR 1.137(a) is hereby **DISMISSED AS MOOT**.

A refund of the previously submitted petition fee has been requested from the Finance Office, Refund Section.

The application file is being forwarded to the Technology Center 3700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOV 19 2004

MAILED

NOV 19 2004

OFFICE OF THE DIRECTOR
TC 3600

Head, Johnson & Kachigian
228 W 17th Place
Tulsa, OK 74119

In re application of
Thomas Price
Application No. 10/696,842
Filed: October 30, 2003
For: SECURITY DEVICE FOR GOOSENECK TRAILERS, TRAILER HITCHES, AND SIMILAR ARTICLES

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on March 22, 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 A) above.

As to condition A), it is not clear that the signing attorney Mark G. Kachigian is signing on behalf of all the listed attorneys. It is suggested that the signing attorney withdraw on behalf of himself and all attorneys of record if that is the intent of the request.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/vdb: 11/10/04

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

STANDLEY LAW GROUP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN OH 43017

COPY MAILED

FEB 07 2008

OFFICE OF PETITIONS

In re Application of	:
Farid Bruce Khalili	:
Application No. 10/696,846	: DECISION GRANTING PETITION
Filed: October 31, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. Ve 019	:

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of September 19, 2006, 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 3738 to consider the amendment received July 25, 2007.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/696,846	10/31/2003	Farid Bruce Khalili	Ve 019

CONFIRMATION NO. 8064

POA ACCEPTANCE LETTER

8698
STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

OC000000028164641

Date Mailed: 02/07/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/25/2007.

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.

/kocreasy/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Andreas C. Doering	: DECISION ON REQUEST FOR
Patent Number	: 7584345	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/696,865	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **705** 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

JAN - 4 2005

MAILED

JAN - 4 2005

OFFICE OF THE DIRECTOR
TC 3600

Katten Muchin Zavis Rosenman
525 West Monroe Street
Chicago, IL 60661-3693

In re application of
Gary W. Ramsden, et al.
Application No. 10/696,894
Filed: October 30, 2003
For: AUTOMATED PACKAGE SHIPPING MACHINE

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed October 12, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market 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 October 12, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on October 12, 2004.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/rwg: 12/18/04

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

KATTEN MUCHIN ROSENMAN LLP
525 WEST MONROE STREET
CHICAGO, IL 60661-3693

COPY MAILED

OCT 13 2005

OFFICE OF PETITIONS

In re Application of
Gary W. Ramsden, et al.
Application No. 10/696,894
Filed: October 30, 2003
Attorney Docket No. 331235-00019

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 16, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 09/162,874, as set forth in the concurrently filed amendment.

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 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

The amendment to the specification seeking to add an additional claim for benefit to Application No. 09/162,874 includes an improper incorporation by reference statement. *Note* MPEP 201.11, Section III. Reference to Prior Application(s), page 200-57, Rev. 2, May 2004. However, a determination will be made by the examiner as to whether the incorporation by reference statement would add new matter, and such will be conveyed to applicant in an Office action.

Any inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3639 for appropriate action on the amendment filed August 16, 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 application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

COPY MAILED

NOV 21 2005

OFFICE OF PETITIONS

In re Application of :
Dempsey et al :
Application No.10/696,907 :
Filed: October 30, 2003 :
Attorney Docket Number: CEO-012.02 :
Title of Invention: PERFORMANCE :
ASSESSMENT OF DATA CLASSIFIERS :

ON PETITION

This is a decision on the petition filed September 20, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due which was mailed June 15, 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 16, 2005. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

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
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
10/696,908	10/30/2003	2681	1562	224877	4	52	4

CONFIRMATION NO. 9255

UPDATED FILING RECEIPT

OC000000012569404

38887
LEYDIG, VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON
CHICAGO, IL 60601-6780

Date Mailed: 05/10/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Amer Hassan, Kirkland, WA;
Paramvir Bahl, Sammamish, WA;
Jean Pierre de Vries, Kirkland, WA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/05/2004

Projected Publication Date: 05/05/2005

Non-Publication Request: No

Early Publication Request: No

Title

Spectrum sharing in the unlicensed band

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WESTMAN CHAMPLIN (MICROSOFT CORPORATION)
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3244

COPY MAILED

DEC 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Rene Bitsch	:	
Application No. 10/696,933	:	ON PETITION
Filed: October 30, 2003	:	
Attorney Docket No. M61.12-0532	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 25, 2008.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed August 6, 2007. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on November 7, 2007. The Office mailed a Notice of Abandonment on March 27, 2008. Applicant filed the instant petition on April 25, 2008, stating that he never received the August 6, 2007 Office action.

To establish non-receipt of an Office action, a petitioner:

> must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has not submitted a copy of a master docket record showing all his replies docketed for a due date of November 6, 2007, nor has petitioner stated that such a record does not exist. Rather, petitioner has only submitted a printout of the file history for the instant application.

While the showing of record is not presently sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

---

[1] MPEP 711.03(c).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WESTMAN CHAMPLIN (MICROSOFT CORPORATION)
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3244

MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Rene Bitsch	:	
Application No. 10/696,933	:	ON PETITION
Filed: October 30, 2003	:	
Attorney Docket No. M61.12-0532	:	

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 16, 2008.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed August 6, 2007. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on November 7, 2007. The Office mailed a Notice of Abandonment on March 27, 2008. Applicant filed a petition on April 25, 2008, stating that he

never received the August 6, 2007 Office action. However, the petition was dismissed in a decision mailed on December 4, 2008. The petition was dismissed because petitioner did not submit a copy of a master docket report showing all of his replies docketed for a due date of November 6, 2007. Rather, petitioner only submitted a printout of the file history for the instant application.

To establish non-receipt of an Office action, a petitioner:

> must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

With the instant renewed petition, petitioner still has not submitted a copy of a master docket record showing all his replies docketed for a due date of November 6, 2007. Rather, petitioner has only submitted a copy of an incoming mail log for correspondence received from the Patent and Trademark Office from August 2, 2007 to August 31, 2007. If no master docket exists showing all replies **docketed** for a **due date** of November 6, 2007, petitioner should so state for the record.

---

[1] MPEP 711.03(c).

While the showing of record is not presently sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAY 04 2009

OFFICE OF PETITIONS

WESTMAN CHAMPLIN (MICROSOFT CORPORATION)
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3244

In re Application of	:	
Rene Bitsch	:	
Application No. 10/696,933	:	ON PETITION
Filed: October 30, 2003	:	
Attorney Docket No. M61.12-0532	:	

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 16, 2009.

The petition under 37 CFR 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed August 6, 2007. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on November 7, 2007. The Office mailed a Notice of Abandonment on March 27, 2008. Applicant filed a petition on April 25, 2008, stating that he never received the August 6, 2007 Office action. However, the petition was dismissed in a decision mailed on December 4, 2008. The petition was dismissed because petitioner did not submit a copy of a master docket report showing all of his replies docketed for a due date of November 6, 2007. Rather, petitioner only submitted a printout of the file history for the instant application. Applicant filed a renewed petition on December 16, 2008, which was dismissed in a decision mailed on February 17, 2009. This time, the petition was dismissed because petitioner only submitted a copy of an incoming mail log.

To establish non-receipt of an Office action, a petitioner:

> must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

With the instant renewed petition, petitioner has submitted a copy of a master docket report, showing all of the firm's replies docketed for a due date of November 6, 2007. An entry for the instant application is absent, supporting the conclusion that the August 6, 2007 Office action was not received.

The application is being forwarded to Group Art Unit 2162 for re-mailing of the August 16, 2007 Office action, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] MPEP 711.03(c).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJR.: 09-04

Paper No: __

TROP PRUNER & HU, PC
8554 KATY FREEWAY
SUITE 100
HOUSTON TX 77024

COPY MAILED

OCT 2 9 2004

OFFICE OF PETITIONS

In re Application of
McDaniel, et al. :
Application No. 10/696,946 :
Filing Date: 30 October, 2003
Attorney Docket No. ITL.1007US (P15532) :

This is a decision on the petition filed on 19 July, 2004, to revive the instant application 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) **DISMISSED as moot**, and the petition fee is refunded via Treasury check.

BACKGROUND

The record reflects that:

- Petitioner filed an Information Disclosure Statement (IDS) on 17 February, 2004;
- Notice of Allowance was mailed on 1 March, 2004, with reply due under a non-extendable deadline on or before 1 June, 2004, however, the Examiner did not address the IDS prior to or at Allowance;
- Petitioner filed an after-final amendment, in this case an amendment under 37 C.F.R. §1.312, on 12 March, 2004, and supplemented that filing on 25 March, 2004;
- on 1 June, 2004, Petitioner filed a Request for Continued Examination (RCE), with fee, and cited the amendment under 37 C.F.R. §1.312 as his submission;

- the Office mailed a Notice of Improper REC on 29 June, 2004 (the 29 June Notice);
- on 12 July, 2004, the Examiner issued a Supplementary Notice of Allowance, however, that action addressed Petitioner's filing of the 17 February, 2004, IDS and not the RCE filed on 1 June, 2004, in concert with the amendment filed on 12 and 25 March, 2004;
- on 19 July, 2004, Petitioner again filed an RCE (with fee and submission), as well as the instant petition (and fee) and request for extension of time (and fee);
- on 10 August, 2004, Petitioner sought the refund of the fee for the extra RCE fee paid.

The record does not indicate that Petitioner abandoned the instant application, and, while the Office may have mailed the 29 June Notice in error, the Office has not held the application abandoned.

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

---

[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).

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to Unintentional Delay

As indicated above, the application was not abandoned by Petitioner and was not so deemed by the Office. Thus, it is a pending application, and it is being returned to the Technology Center for consideration of the RCE with the amendment filed 12 March and re-asserted on 25 March, 1 June and 19 July, 2004.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **dismissed as moot**.

The file is released to the Examiner in Technology Center 2800 for further processing 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

---

[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DUFT BORNSEN & FISHMAN, LLP
1526 SPRUCE STREET
SUITE 302
BOULDER, CO 80302

COPY MAILED

MAR 3 0 2009

OFFICE OF PETITIONS

In re Application of :
Jeffery A. Engelman et al :
Application No. 10/696,953 :
Filed: October 30, 2003 :
Attorney Docket No. BLD920030026US1 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 5, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 22, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is May 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 2625 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ALEXZA MOLECULAR DELIVERY CORPORATION
1001 EAST MEADOW CIRCLE
PALO ALTO, CA 94303

COPY MAILED

NOV 0 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Craig C. Hodges et al :
Application No. 10/696,959 :
Filed: October 30, 2003 :
Attorney Docket No. 00020.08CON :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 30, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 22, 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 June 23, 2004.

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 $490 extension of time submitted with the petition on September 30, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Pursuant to petitioner's authorization, Deposit Account No. 50-2731 was charged $665.00 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 Technology Center AU 1616.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
SEP 12 2008

SWANSON & BRATSCHUN, L.L.C
8210 SOUTHPARK TERRACE
LITTLETON CO 80120

In re Application of	:	
Hodges, et al.	:	ON PETITION
Application No. 10/696,959	:	
Filed: October 30, 2003	:	
Attorney Docket No. **00020.08CON**	:	

This is a decision on the "Request for Refund" filed August 24, 2007, which will be treated as a request under 37 CFR 1.28(a).

The request is **GRANTED**.

A review of the application file history reveals that on July 27, 2007, applicant filed a terminal disclaimer and paid the fee of the terminal disclaimer at the large entity rate of $130.00. Applicant now files a request for a refund of part of the monies paid arguing that applicant was, in fact, a small entity at the time the fee was paid. It is noted that 37 CFR 1.28(a) provides that:

> (a) *Refunds based on later establishment of small entity status.* A refund pursuant to § 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee.

It is noted that applicant asserted itself as a small entity when the application was filed. Further, the request for a refund of the amount overpaid was made within three-months of the date the fee was overpaid. The request for refund of the amount overpaid is granted, accordingly.

The amount of $65.00 will be refunded to deposit account 19-5117, in due course.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN J. OSKOREP, ESQ.
ONE MAGNIFICENT MILE CENTER
980 N. MICHIGAN AVE.
SUITE 1400
CHICAGO IL 60611

COPY MAILED

JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Hugh Hind et al.	:	
Application No. 10/696,980	:	ON PETITION
Filed: October 30, 2003	:	
Attorney Docket No. 555255012614	:	

This is a decision on the petition filed August 10, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned June 30, 2006 for failure to timely pay the issue fee on or before June 29, 2006. Accordingly, a Notice of Abandonment was mailed July 5, 2006.

The issue fee, publication fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-1-07

Paper No.: _____

TO SPE OF : ART UNIT 1700

SUBJECT : Request for Certificate of Correction for Appl. No. 7153596 B2 (10/697002

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**.

Please response A/S/A/P. Attorney wants to know the status

Ella James
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SPE

1773
Art Unit

AlouUNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MATTINGLY, STANGER & MALUR, P.C.
SUITE 370
1800 DIAGONAL ROAD
ALEXANDRIA VA 22314

COPY MAILED

OCT 3 0 2008

OFFICE OF PETITIONS

In re Patent No. 7,153,596	:	
Application No. 10/697,002	:	
Filed: October 31, 2003	:	ON PETITION
Issued: December 26, 2006	:	
Attorney Docket No. NIT-401	:	

This is a decision on the petition filed May 29, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

A Certificate of Correction was issued on October 16, 2007.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the 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.

RECEIVED
CENTRAL FAX CENTER
MAY 2 9 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.	:	7,153,596	Confirmation No. 9915
Issue Date	:	December 26, 2006	
Applicant	:	K. TANAHASHI et al	
Appl. No.	:	10/697,002	
Filed	:	October 31, 2003	
Title	:	PERPENDICULAR MAGNETIC RECORDING MEDIUM, MANUFACTURING PROCESS OF THE SAME, AND MAGNETIC STORAGE APPARATUS USING THE SAME	
Docket No.	:	NIT-401	
Customer No.:		24956	

10/30/2008 GARIAS 00000015 7153596
01 FC:1808 130.00 OP

Commissioner of Patent & Trademark Office
Mail Stop Petitions - DAC
P.O. Box 1450
Alexandria, VA 22314

SECOND REQUEST UNDER 37 CFR 3.81(b) FOR A PATENT TO BE CORRECTED TO STATE THE NAME OF THE ASSIGNEE

Sir:

On April 2, 2007, Applicants submitted a Request under 37 CFR 3.81(b) for a Patent to Be Corrected to State the Name of the Assignee. A copy of the successful fax notice is enclosed as evidence that the Request was received by the Patent Office.

In this second response to the communication mailed from the U.S. Patent Office on February 22, 2007 (copy enclosed), Applicants hereby file this Request under 37 CFR 3.81(b) for a patent to be corrected to state the name of the assignee and hereby provide following:

A. Applicants state that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

Adjustment date: 10/30/2008 GARIAS
04/03/2007 FMETEKII 00000028 10697002
01 FC:1464 -130.00 OP

RECEIVED
CENTRAL FAX CENTER
MAY 2 9 2007

B. A copy of the Notice of Recordation of Assignment Document showing the assignment of the application from Hitachi, Ltd. to Hitachi Global Storage Technologies Japan, Ltd. recorded on March 10, 2006, at reel 017331, frame 0825 is enclosed.

No processing fee as set forth in 37 CFR 1.117(h) is enclosed since such processing fee was paid on April 2, 2007. However, the Commissioner is hereby authorized to charge Deposit Account 50-1417 for any fees that are deemed necessary.

Applicants also request the issuance of a Certificate of Correction. As such, Applicants request that the file be forwarded to the Certificates of Corrections Branch for issuance of a Certificate of Correction, assuming the Petition is granted.

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

By _____
Shrinath Malur
Reg. No. 34,663
(703) 684-1120

PAGE 3/9 * RCVD AT 5/29/2007 11:11:41 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/5 * DNIS:2738300 * CSID:703 684 1157 * DURATION (mm-ss):02-40

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

COPY MAILED

SEP 0 8 2004

OFFICE OF PETITIONS

In re Application of	:
Takashi Nozaki et al.	: DECISION ACCORDING STATUS
Reissue Application No. 10/697,005	: UNDER 37 CFR 1.47(a)
Filed: October 31, 2003	:
Attorney Docket No. SHO-0027	:

This is in response to the petition under 37 CFR 1.47(a), filed August 10, 2004.

The petition is GRANTED.

The above-identified application was filed on October 31, 2003, without an executed oath or declaration and naming Takashi Nozaki and Tomokazu Nakata as joint inventors.

Accordingly, on February 10, 2004 a "Notice To File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing. A two month period for reply was set.

In response, on August 10, 2004 , with a four month extension of time request, a petition under 37 CFR 1.47(a) was filed with the last known address of Tomokazu Nakata, petition fee and surcharge, a declaration signed by joint inventor Takashi Nozaki and a declaration by Nobuo Yaegashi, Assistant General Manager of Patents for the Assignee, AZURE, regarding the efforts enlisted to have Mr. Nakata execute the oath or declaration.

The applicant files this petition alleging that joint inventor Tomokazu Nakata refuses to sign the oath/declaration and seeks status under 37 CFR 1.47(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to Technology Center 3713 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

COPY MAILED

NOV 1 5 2004

OFFICE OF PETITIONS

In re Application of Nozaki and Nakata Application No. 10/697,006 Filed: October 31, 2003 Attorney Docket No. SHO-0028 For: Gaming Machine	: : : : : :	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 August 24, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy (1) and (2).

As to item (1), petitioner must establish that the non-signing inventor refused to sign the oath or declaration after being presented with the application papers. Petitioner has failed to establish that the non-signing inventor was presented with a copy of the application. An inventor cannot sign a declaration stating he or she has "reviewed and understands the application papers" when the inventor has not been presented with a copy of the application and therefore has not reviewed the application. Refusal within the meaning of 37 CFR 1.47 requires that the inventor be presented with the application papers and given adequate time to review the contents of the application. Until the inventor reviews the papers and reads the specification and claims, he cannot know if he is actually an inventor of the claimed invention. Petitioner should send a copy of the application to the inventor along with instructions setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as a certified mail return receipt, cover letter of instructions, telegram, etc.

Petitioner should note that if the non-signing inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

As to (2), the mailing address for the non-signing inventor on the declaration is listed as Aruze Corporation. The "mailing address" on a declaration should be the address where an applicant customarily receives mail. The record fails to indicate Nakata normally receives his mail at Aruze Corporation. A different address for the non-signing inventor is listed in the petition. The address listed on the declaration for the non-signing inventor can be corrected either by the submission for a supplemental declaration or the submission of an Application Data Sheet.[1]

A copy of the petition was filed on October 6, 2004. The Office is assuming the second copy is identical to the original petition. If any differences exist, petitioner should notify the Office. As a result of the filing of a copy of the original petition, the petition fee of $130 was incorrectly charged a second time. The $130 will be credited to petitioner's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street South
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

[1] Effective November 7, 2000 the mailing address of each inventor may be provided in an application data sheet.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

COPY MAILED

APR 28 2005

OFFICE OF PETITIONS

In re Application of Nozaki and Nakata Application No. 10/697,006 Filed: October 31, 2003 Attorney Docket No. SHO-0028 For: Gaming Machine	: : : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed January 14, 2005.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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.

A petition fee is not necessary for the request for reconsideration. Therefore, an additional fee of $130 has not been charged to petitioner's deposit account.

The Office of Initial Patent Examination will be informed of the instant decision.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

COPY MAILED

JUL 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Kazuo Okada :
Application No. 10/697,027 :
Filed: October 31, 2003 :
Attorney Docket No. SHO-0043 :

ON PETITION

This is a decision on the petition, filed March 5, 2008, to revive the above-identified application under 37 CFR 1.137(b).

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 1, 2006. A Notice of Abandonment was mailed on July 26, 2007. On March 5, 2008, the present petition was filed, along with a Notice of Appeal (with fee), a Pre-Appeal Brief Request for Review and an Information Disclosure Statement.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and appeal fee of $510; (2) the petition fee of 1,540; and (3) an adequate statement of unintentional delay.

Accordingly, the petition is GRANTED.

In view of the submission of the Pre-Appeal Brief Request for Review, the period of time for filing the appeal brief will be the later of the two-month period set in 37 CFR 41.37(a) or one month from the mail date of the decision on the request. **The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.**

This application is being referred to Technology Center AU 3714 for further prosecution.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

COPY MAILED

JUL 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Lourdel et al.	:	
Application No. 10/697,034	:	ON PETITION
Filed: October 31, 2003	:	
Attorney Docket No. 7792.P005	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 11, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (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.

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.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

This matter is being referred to 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) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BLVD
SEVENTH FLOOR
LOS ANGELES, CA 90025

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

Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 04/21/2010

Applicant	: Maximilian Josef Spring	: DECISION ON REQUEST FOR
Patent Number	: 7580990	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/697,069	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1027** 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

Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 05/18/2010

Applicant : Maximilian Josef Spring
Patent Number : 7580990
Issue Date : 08/25/2009
Application No : 10/697,069
Filed : 10/29/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1033** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Sashikanth Chandrasekaran	: DECISION ON REQUEST FOR
Patent Number	: 7647595	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/697,073	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1566** 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

HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 05/18/2010

Applicant : Sashikanth Chandrasekaran
Patent Number : 7647595
Issue Date : 01/12/2010
Application No : 10/697,073
Filed : 10/29/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1622** 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PILLSBURY WINTHROP SHAW PITTMAN
725 S. FIGUEROA STREET, SUITE 2800
LOS ANGELES, CA 90017

COPY MAILED

OCT 21 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yukichi Ono et al :
Application No. 10/697,074 :
Filed: October 30, 2003 :
Attorney Docket No. 0306496 H8009US :

This is a decision on the petition under 37 CFR 1.137(b), filed October 11, 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 April 22, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 23, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of issue fee/publication fee; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of April 22, 2005 is accepted as having been unintentionally delay.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

The change of correspondence address filed October 11, 2005 is noted and made of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division to be processed into a patent.

Wan Laymon
Petitions Examiner
Office of Petitions

Attachment: PTOL-85(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

AUG 2 4 2007

OFFICE OF PETITIONS

FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of Peter S. Ebert Application No. 10/697,091 Filed: October 31, 2003 Attorney Docket No. 13909-124001 /	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed April 2, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Scott R. Boalick on behalf of himself.

Scott R. has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT E. KREBS
THELEN REID & PRIEST LLP
P.O. BOX 640640
SAN JOSE CA 95164

COPY MAILED

SEP 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Nayak, et al.	:	
Application No. 10/697,101	:	DECISION ON PETITION
Filed: October 31, 2003	:	TO WITHDRAW
Attorney Docket No. 036263-000018	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 21, 2006.

The request is **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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Mr. Mark Spolyar, ESQ.
Spolyar Technology Law Group
2200 Cesar Chavez Street
San Francisco, Ca 94124

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

MAIL

AUG 10 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
BODO, YANN, et al.
Application No. 10/697,106
Filed: October 31, 2003
For: **METHOD OF WATERMARKING A VIDEO SIGNAL, A SYSTEM AND A DATA MEDIUM FOR IMPLEMENTING SAID METHOD, A METHOD OF EXTRACTING THE WATERMARKING FROM A VIDEO SIGNAL, AND SYSTEM FOR IMPLEMENTING SAID METHOD**

DECISION ON PETITION
TO RESTART PERIOD

This is a decision on the Petition to Reset the Period for Reply under 37 CFR § 1.181(a) filed July 23, 2007. No fee is required.

Petitioner alleges non-receipt of the final Office action mailed May 11, 2007. In support of the petition, petitioner has provided a statement that the office communication was not received by the petitioner. On July 16, 2007 petitioner states, a routine review of the applications status by accessing the PAIR database, was performed. It was at that time when applicants noticed an office action was mailed on July 23, 2007. Subsequently the office action was downloaded and docketed. A copy of the docket record where the nonreceived office communication would have been entered had it been received and docketed was also provided.

A review of the file finds that the U.S. Postal Service returned the original non-final Office action. Although, there was no finding of irregularity in the correspondence address, there was an obvious irregularity in mailing since the Office action was returned.

The petition is **GRANTED.**

The application file will be forwarded to the Technology Center's technical support staff for re-mailing of the final Office action originally mailed on May 11, 2007. The shortened statutory period of three months will be set to begin as of the mailing thereof.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

MAIL

AUG 10 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
BODO, YANN, et al.
Application No. 10/697,106
Filed: October 31, 2003
For: **METHOD OF WATERMARKING A VIDEO SIGNAL, A SYSTEM AND A DATA MEDIUM FOR IMPLEMENTING SAID METHOD, A METHOD OF EXTRACTING THE WATERMARKING FROM A VIDEO SIGNAL, AND SYSTEM FOR IMPLEMENTING SAID METHOD**

DECISION ON PETITION
TO RESTART PERIOD

This is a decision on the Petition to Reset the Period for Reply under 37 CFR § 1.181(a) filed July 23, 2007. No fee is required.

Petitioner alleges non-receipt of the final Office action mailed May 11, 2007. In support of the petition, petitioner has provided a statement that the office communication was not received by the petitioner. On July 16, 2007 petitioner states, a routine review of the applications status by accessing the PAIR database, was performed. It was at that time when applicants noticed an office action was mailed on July 23, 2007. Subsequently the office action was downloaded and docketed. A copy of the docket record where the nonreceived office communication would have been entered had it been received and docketed was also provided.

A review of the file finds that the U.S. Postal Service returned the original non-final Office action. Although, there was no finding of irregularity in the correspondence address, there was an obvious irregularity in mailing since the Office action was returned.

The petition is **GRANTED.**

The application file will be forwarded to the Technology Center's technical support staff for re-mailing of the final Office action originally mailed on May 11, 2007. The shortened statutory period of three months will be set to begin as of the mailing thereof.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

SEP 22 2008

OFFICE OF PETITIONS

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET, SUITE 1800
ARLINGTON, VA 22209-3873

In re Application of	:	
Knight et al.	:	
Application No. 10/697,114	:	DECISION ON PETITION
Filed: October 31, 2003	:	TO WITHDRAW
Attorney Docket No. 3350-31M	:	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 27, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to ANTONELLI, TERRY, STOUT & KRAUS, LLP, has been revoked by the assignee of the patent application on November 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

Ramesh Krishnamurthy
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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/29/2010

Applicant	: Michel Diane Cyriel Van Ackere	: DECISION ON REQUEST FOR
Patent Number	: 7610401	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/697,121	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2003	: 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.

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/29/2010

Applicant	: Michel Diane Cyriel Van Ackere	: DECISION ON REQUEST FOR
Patent Number	: 7610401	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/697,121	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2003	: 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Armando Dominguez
14445 South West 95 Terrace
Miami FL 33186

COPY MAILED
APR 1 8 2006
OFFICE OF PETITIONS

In re Application of :
Armando Dominguez :
Application No. 10/697,134 : DECISION ON PETITION
Filed: October 30, 2003 :
Title: Handle Multi-Purpose Tool :

This is a decision on the petition under 37 CFR 1.181, filed November 11, 2005, and supplemented on November 23, 2005, to withdraw the holding of abandonment for the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience.

This application became abandoned for failure to reply in a proper and timely manner to the Notice of Drawing Inconsistency with Specification, mailed April 18, 2005. The Notice required petitioner to correct the inconsistency within a time period of one month or thirty (30) days, whichever was longer, from the mailing date of the Notice, or within the time remaining in the period set forth in the Notice of Allowability (Form PTOL-37) to file corrected drawings, whichever was longer. No extensions of time were permitted to file a reply. Accordingly, this application became abandoned on May 19, 2005. A Notice of Abandonment was mailed on October 7, 2005.

In the petition, petitioner asserted that he filed a change of address with the USPTO on April 1, 2005. Petitioner stated that the Office mailed the Notice of Drawing Inconsistency to his previous address because it did not enter his change of address in the application. Accordingly, petitioner requested that the Office withdraw the holding of abandonment.

A review of the record indicates that petitioner submitted a change of correspondence address with the USPTO on April 1, 2005. Unfortunately, the Office did not change the correspondence address as requested. For this reason, the petition is **granted.** The Notice of Abandonment is hereby withdrawn. The Office acknowledges receipt of the amendment filed in response to the Notice of April 18, 2005.

This matter is being referred to the Office of Patent Publication for further action.

Telephone inquiries specific to this decision may be directed to (571) 272-3282. All other inquiries regarding the status of the application should be directed to the Office of Patent Publication at (571) 272-4200.

Christina Tartera Donnell

Christina Tartera Donnell
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

FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

Mail Date: 05/24/2010

Applicant	: Reinhard Hein	: DECISION ON REQUEST FOR
Patent Number	: 7627634	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/697,168	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1643** 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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,243	10/31/2003	Roland Heumesser	1509-473	9036

7590 04/21/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
KARMELEK, ALISON L

ART UNIT	PAPER NUMBER
3623	

NOTIFICATION DATE	DELIVERY MODE
04/21/2008	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

Refund Ref: 0030054337
04/21/2008
Credit Card Refund Total: $832.00
Am Exp..: XXXXXXXXXXX1006

Refund Ref: 0030054336
04/21/2008
Credit Card Refund Total: $628.00
Am Exp..: XXXXXXXXXXX1006

Adjustment date: 04/21/2008 DTERRY
11/03/2003 SDENBO01 00000052 10697243
02 FC:1202 -198.00 OP
03 FC:1201 -430.00 OP
Adjustment date: 04/21/2008 DTERRY
05/20/2004 STEUMEL1 00000078 10697243
02 FC:1202 -144.00 OP
02 FC:1201 -688.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES 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.

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

COPY MAILED

DEC 3 0 2004

OFFICE OF PETITIONS

In re Application of Masaaki Asonuma Application No. 10/697,249 Filed: October 31, 2003 Attorney Docket No. SHO-0023 Title: GAMING MACHINE	DECISION REFUSING STATUS UNDER 37 C.F.R. § 1.47(b)

This is a decision on the "PETITION UNDER 37 C.F.R. §1.47 TO ACCEPT DECLARATION WHEN INVENTOR REFUSES TO JOIN IN APPLICATION," filed October 1, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on October 31, 2003, without an executed oath or declaration. Accordingly, on August 11, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring *inter alia* an executed oath or declaration, and a surcharge for its late filing.

In response, rule 47(b) applicant filed the instant petition along with a declaration executed by Nobuo Yaegashi on behalf of ARUZE Corp. and on behalf of sole inventor Masaaki Asonuma; and the late surcharge under § 1.16(e). Rule 47 applicant maintains that status under 37 CFR § 1.47(b) is proper because sole inventor Asonuma has refused to join in the application.

§ 1.47(b) provides that:

> Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in § 1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

The instant petition does not include an adequate showing that inventor Asonuma has refused to join in the application. Before a refusal can be alleged, applicant must demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The evidence only supports a conclusion that the combined declaration and power of attorney and assignment papers were sent to inventor Asonuma. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Thus, on renewed petition, applicant must establish that the entire application package, including specification, claims and drawings, was presented to non-signing inventor Asonuma and he subsequently refused to sign. If they have not already been sent, a copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the inventor is represented by counsel, to the address of the non-signing inventor's attorney. Documentary evidence, including copies of the transmittal cover letters and return mail receipts, should be made part of the record.

Furthermore, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Thus, on renewed petition, a new statutory declaration of Nobuo Yaegashi or other proper party, such as the employee who presents the papers, is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: CUSTOMER SERVICE WINDOW
2011 South Clark Place
Crystal Plaza Two Lobby
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

FAX RECEIVED
MAY 26 2005
OFFICE OF PETITIONS

In re Application of Masaaki Asonuma Application No. 10/697,249 Filed: October 31, 2003 Attorney Docket No. SHO-0023 Title: GAMING MACHINE	DECISION ACCORDING STATUS UNDER 37 C.F.R. § 1.47(b)

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.47 TO ACCEPT DECLARATION WHEN INVENTOR REFUSES TO JOIN IN APPLICATION" filed March 29, 2005.

The petition is **GRANTED**.

The above-identified application was filed on October 31, 2003, without an executed oath or declaration. In response to the "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," mailed August 11, 2004, on October 1, 2004, applicants filed the initial petition under 1.47. However, by decision mailed December 30, 2004, the petition was dismissed for failure to make an adequate showing that inventor Asonuma has refused to join in the application. Rule 47(b) applicant had not shown that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor[1]. See MPEP 409.03(d).

On instant renewed petition, rule 47(b) applicant has provided a SECOND DECLARATION UNDER 37 C.F.R. § 1.132 setting forth the facts relied on to show that inventor Asonuma has refused to join in the application. This additional evidence has been

[1] Petitioner previously met all other requirements of § 1.47(b). The initial petition included payment of the petition fee; a showing of proprietary interest; a showing of irreparable harm; a statement of the last known address of the non-signing inventor; and a declaration executed in compliance with §§ 1.63 and 1.64.

considered, and it is concluded that petitioner has now provided proof of the unavailability of inventor Asonuma.

The declaration filed October 1, 2004, and the petition have been reviewed and are now found in full compliance with 37 C.F.R. § 1.47(b).

This application is hereby accorded Rule 1.47(b) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application will be examined in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Masaaki Asonuma
73-23-7-2
Maehara-higashi
Funabashi-shi, Chiba
JAPAN

FAX RECEIVED

MAY 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Masaaki Asonuma	:	
Application No. 10/697,249	:	LETTER
Filed: October 31, 2003	:	
Attorney Docket No. SHO-0023	:	
Title: GAMING MACHINE	:	

Dear Mr. Asonuma:

You are named as sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCOTT BOALICK
USPTO
600 DULANY STREET
ALEXANDRIA, VA 22313

COPY MAILED

AUG 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Peter S. Ebert	:	
Application No. 10/697,253	:	DECISION ON PETITION
Filed: October 31, 2003	:	TO WITHDRAW
Attorney Docket No. 13909-125001 / 2003P00496	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Scott Boalick. Scott Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Notice of Allowance Fee(s) Due mailed on May 4, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **FISH & RICHARDSON, P.C.**
PO BOX 1022
MINNEAPOLIS MN 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

MAILED
JUN 04 2010
OFFICE OF PETITIONS

In re Application of :
Dennis M. Newns :
Application No. 10/697,271 : ON PETITION
Filed: October 31, 2003 :
Attorney Docket No. YOR920030500US1 :

This is a decision on the petition filed April 19, 2010 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication Fee in a timely manner in reply to the Notice of Allowance mailed October 1, 2009, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 2, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication Fee; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/13/08

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10697278 Patent No.: 7224331 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte M. Newsome
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: _____

RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE _____ **Art Unit** 2629

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/13/08

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10697278 Patent No.: 7224331 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte M. Newsome
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 correction request is approved, please consider.

/JN/

SPE _____ Art Unit 2629

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

COPY MAILED

MAY 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Peter J. Kight, et al	:	
Application No. 10/697,288	:	DECISION ON PETITION
Filed: October 31, 2003	:	TO WITHDRAW
Attorney Docket No. 23952-0043	:	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 27, 2005.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Antonelli, Terry, Stout & Kraus, LLP has been revoked by the assignee of the patent application on November 23, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the first copied address indicated below.

There are no pending Office actions at the present time.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: MR. HANS DREYER DIRECTOR
INTELLECTUAL PROPERTY
(LEGAL DEPARTMENT)
CHECK FREE CORPORATION
6000 PERIMETER DRIVE
DUBLIN, OH 43017-3233

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

JAMES C. LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA VA 22314

COPY MAILED

JUL 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Williams, et al.	:	
Application No. 10/697,302	:	ON PETITION
Filed: October 31, 2003	:	
Attorney Docket No. AQUA-016-A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed November 1, 2005. Accordingly, this application became abandoned on February 2, 2006. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the November 1, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JAMES C. LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA VA 22314

COPY MAILED

MAR 0 5 2007

OFFICE OF PETITIONS

In re Patent No. 7,112,297	: DECISION ON REQUEST FOR
Williams et al.	: RECONSIDERATION OF
Issue Date: September 26, 2006	: PATENT TERM ADJUSTMENT
Application No. 10/697,302	: and
Filed: October 31, 2003	: NOTICE OF INTENT TO ISSUE
Atty. Dkt. No. AQUA-018-A	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d) filed October 20, 2006. Patentees request the Office to revise the patent term adjustment in the above-identified patent from sixty-five (65) days to one hundred sixty-five (165) days.

The request for correction of the patent term adjustment (PTA) indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **ONE HUNDRED SIXTY-FIVE (165)** days.

On September 26, 2006, the application matured into U.S. Patent No. 7,112,297, with a revised patent term adjustment of 65 days. Patentees dispute the entry of a period of reduction of 100 days associated with the Issue Fee payment being verified on May 12, 2006. Patentees assert that the only circumstance constituting a failure to engage was the abandonment of the application on February 2, 2006.

37 C.F.R. § 1.704(c) states:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of

the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:
>
> (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
>
> (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

Therefore, Applicants should have been assessed delay for the period from February 2, 2006 (the date the application became abandoned) to July 5, 2006 (the date the decision reviving the application was mailed), or 154 days. The period of reduction of 100 days associated with the filing of the Issue Fee payment on petition to revive is being removed.

In view thereof, the patent should have issued with a revised patent term adjustment of ONE HUNDRED SIXTY-FIVE (165) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by ONE HUNDRED SIXTY-FIVE (165) days.

Telephone inquiries specific to this letter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,112,297 B2

DATED : **September 26, 2006**

INVENTOR(S) : Williams 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 (65) days

Delete the phrase "by 65" and insert – by 165 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SMART & BIGGAR
P.O. BOX 2999, STATION D
900-55 METCALFE STREET
OTTAWA, ON K1P 5Y6
CANADA

Mail Date: 05/13/2010

Applicant	: Abdelgader Legnain	: DECISION ON REQUEST FOR
Patent Number	: 7649994	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/697,309	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1335** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAR 3 1 2006

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Mutsumi Hamaguchi et al	:	
Application No. 10/697,329	:	ON PETITION
Filed: October 31, 2003	:	
Attorney Docket No. 2936-0200P	:	

This is a decision on the petition, filed March 31, 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 19, 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 2817 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : March 31, 2006

TO : Director, Office of Patent Publication

COPY MAILED
MAR 3 1 2006
OFFICE OF PETITIONS

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Mutsumi Hamaguchi et al
Application No. :10/697,329
Filed :October 31, 2003

The above-identified application has been assigned Patent No. 7,023,287 and an issue date of April 4, 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 April 4, 2006:

"All reference to Patent No. 7,023,287 to Mutsumi Hamaguchi et al of Japan for VOLTAGE-CONTROLLED OSCILLATOR AND INTEGRATED CIRCUIT DEVICE PROVIDED WITH IT appearing in the Official Gazette of April 4, 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

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

HARRITY & HARRITY, LLP
11350 Random Hills Road
SUITE 600
FAIRFAX, VA 22030

Mail Date: 04/30/2010

Applicant	: Georges R. Harik	: DECISION ON REQUEST FOR
Patent Number	: 7657423	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/697,333	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1859** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS H WILLIAMS
6423 FAIRWAYS DRIVE
LONGMONT, CO 80503

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Thomas H. Williams :
Application No. 10/697,393 : ON PETITION
Filed: October 30, 2003 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2008, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 5, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

The petition is **GRANTED**, nunc pro tunc.

The Technology Center was without authority to act further in the case absent a grantable petition reviving this application after abandonment. Nevertheless, in view of this decision on petition, the RCE is now considered a proper filing and the actions of the Technology Center taken thereafter are hereby ratified.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2611 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/April M. Wise/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
PO BOX 272400
FORT COLLINS, CO 80527

COPY MAILED

OCT 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Dodd et al. :
Application No. 10/697,394 :
Filed: October 30, 2003 :
For: OPTICAL TARGETS : ON PETITION

This is a decision on the petition in Response to Notice of Incomplete Nonprovisional Application, filed September 15, 2004, requesting the application be accorded a filing date of October 30, 2003, including 9 sheets of drawings containing Figures 1-14 described in the specification.

The petition is **granted**.

The application was filed on October 30, 2003. However, on July 15, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting that a filing date had NOT been accorded the application because the application had been deposited without drawings.

In response, Petitioner files the instant petition wherein Petitioner avers that 9 sheets of drawings were originally filed with the application on October 30, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 9 sheets of drawings (Fig. 1-14) on October 30, 2003.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 9 sheets of drawings (Fig. 1-14) on October 30, 2003. Petitioner has also re-submitted 9 sheets of drawings, comprising Figures 1 - 14, with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

The copy of 9 sheets of drawings, comprising Figures 1 - 14, supplied on September 15, 2004, will be used for examination purposes.

A refund of the petition fee has been credited to deposit account 08-2025 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of October 30, 2003, and an indication that 9 sheets of drawings containing Fig. 1 - 14 were present on filing, using the 9 sheets of drawings filed on September 15, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **11/06/2007**

TO SPE OF : ART UNIT **1700 (1794)**

SUBJECT : Request for Certificate of Correction on Patent No.: **7,094,439**

Attn: Anthony Weier

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 as req. in COCIN? In eDan/Madras.

Thank You For Your Assistance

Ernest C. White, LIE - 308-9390x122
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:

_____

_____

_____

_____

_____

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

KEITH D. HENDRICKS
SUPERVISORY PATENT EXAMINER

SPE Art AU 1794

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

HOLME ROBERTS & OWEN, LLP
299 SOUTH MAIN
SUITE 1800
SALT LAKE CITY, UT 84111

COPY MAILED
AUG 14 2006
OFFICE OF PETITIONS

In re Application of :
FLEISCHHACKER, et al. : DECISION ON PETITION
Application No. 10/697,418 :
Filed: October 30, 2003 :
Docket No.: 48924-01050 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 15, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 14, 2005 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed September 13, 2005. The Notice set a three month statutory period for reply. Notice of Abandonment was mailed January 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 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Publications Division for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

JUN 0 8 2009

OFFICE OF PETITIONS

In re Patent No. 7,403,933	:	
Thomas Arend	:	DECISION ON
Issue Date: July 22, 2008	:	REQUEST FOR RECONSIDERATION
Application No. 10/697,433	:	OF
Filed: October 31, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 08516.0005:		

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R § 1.705(d)", filed January 16, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 401 days to 562 days.

The above-identified application matured into U.S. Patent No. 7,403,933 on July 22, 2008. The patent issued with a PTA of 401 days. Patentees request that the adjustment be increased from 401 days to an adjustment of 562 days. The instant request for reconsideration was filed January 16, 2009.

In accordance with 37 CFR 1.705(d), "[i]f the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section."

Moreover, in accordance with 37 CFR 1.705(e), the periods set forth in 37 CFR 1.705 <u>are not</u> extendable.

In view thereof, the instant application for patent term adjustment under 37 CFR 1.705(d) is **<u>DISMISSED AS UNTIMELY FILED</u>**.

Any request for reconsideration of this decision must be submitted within TWO MONTHS of the mail date of the instant

decision indicated above. Extensions under 37 CFR 1.136 are not permitted.

The Office hereby acknowledges submission of the required $200.00 application fee set forth in 37 CFR 1.18(e).

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Alesia Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

DEC 16 2008

OFFICE OF PETITIONS

JOSEPH J. SPRANZA
12493 OLD ROUGH AND READY HWY.
GRASS VALLEY CA 95945

In re Application of
Joseph J. Spranza et al
Application No. 10/697,444
Filed: October 29, 2003
Attorney Docket No. SAFE TROCHAR WITH GUIDE FOR PLACEMENT OF SURGICAL DRAINS

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 26, 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 nonfinal rejection mailed on July 9, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1 and 3).

***As to item (1)*:**

The copy of the response submitted with the instant petition is not appropriate because it is **not signed**. Also, the copy of the receipt submitted with the petition is not itemized to show that a response to the nonfinal rejection mailed July 9, 2007 was received by the U.S.P.T.O. for the above identified application. Further, no evidence is provided on the receipt to be associated with the above identified application.

***As to item (2)*:**

The petition is not considered to contain a proper statement of unintentional delay since the petition is signed by only one inventor (in this instance Widow of Joseph John Spranza III). In accordance with 37 CFR 1.33(b)(4), **all** inventors must sign. Therefore, the signature of inventor Robert S. Namba is also required.

Petitioner may with to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

MAILED

MAY 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Joseph J. Spranza et al	:	
Application No. 10/697,444	:	DECISION ON PETITION
Filed: October 29, 2003	:	
Attorney Docket No. SDEV-1-1003	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 3, 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 amendment and declarations by Dr. Robert Namba and Mrs Susan Spranza; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed July 9, 2007, 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 3763 for appropriate action by the Examiner in the normal course of business on the reply received April 3, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLE/FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Mail Date: 04/21/2010

Applicant	: Brett Bilbrey	: DECISION ON REQUEST FOR
Patent Number	: 7616829	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/697,447	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **929** 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

BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

Mail Date: 05/13/2010

Applicant	: Julian Mitchell	: DECISION ON REQUEST FOR
Patent Number	: 7643412	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/697,464	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1832** 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

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/697467	10/30/03	OHNO, SHIOMI	7217/70979

LERNER, DAVID, LITTENBERG
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

EXAMINER	
LIE, ANGELA	
ART UNIT	PAPER NUMBER
2163	

DATE MAILED: 3/29/07

NOTICE OF RESCINDED ABANDONMENT

☐ In response to your communication filed 3-16-07

☒ Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded.

For Cheryl McKeon
Manager, Publications Division
Office of Patent Publication
571-272-4200

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

COPY MAILED

MAR 1 2 2007

OFFICE OF PETITIONS

In re Application of

Stucky, et al.

Application No. 10/697,479

Filed: October 30, 2003

Attorney Docket No. D0932-00412

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), August 30, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed May 24, 2006. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on August 25, 2006. A Notice of Abandonment was mailed on August 31, 2006.

The issue fee and publication fee were received on August 30, 2006.

Form PTOL-85B, filed August 30, 2006, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VINCENT L. CARNEY LAW OFFICE
P.O. BOX 80836
LINCOLN NE 68501-0836

COPY MAILED

AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Delwin D. Hodgin et al	:	
Application No. 10/697,496	:	
Filed: October 30, 2003	:	
Attorney Docket No. 18-571-9-1	:	

This is a decision on the petition, filed August 1, 2005, under 37 CFR 1.313(c)(1) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

The application is hereby withdrawn from issue.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1723.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : August 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) :Delwin D. Hodgin et al
Application No. :10/697,496
Filed :October 30, 2003

The above-identified application has been assigned Patent No. 6,932,908 and an issue date of August 23, 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 August 23, 2005:

"All reference to Patent No. 6,932,908 to Delwin D. Hodgin et al of Nebraska for DISPOSABLE CHROMATOGRAPHIC COLUMNS appearing in the Official Gazette of August 23, 2005 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

LSI LOGIC CORPORATION
1621 BARBER LANE
MS: D-106 LEGAL
MILPITAS, CA 95035

COPY MAILED

APR 21 2004

OFFICE OF PETITIONS

In re Application of
Sheldon Aronowitz and James Kimball
Application No. 10/697,506
Filed: October 29, 2003
Title of Invention:
VAPORIZATION AND HANDLING OF METALS
FOR USE IN SEMICONDUCTOR PROCESSING

DECISION GRANTING
STATUS UNDER
37 CFR 1.47

This is in response to a Petition under 37 CFR 1.47(a), filed December 23, 2003, 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, Sheldon Aronowitz, 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.

It is noted that the address on the petition is different from the address of record, if Petitioner desires to receive further correspondence with respect to this application, a change of correspondence address must be filed. A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until instructions to the contrary are received.

The application file is being returned to Technology Center Art Unit 1765 for examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

Cc: BEYER WEAVER & THOMAS
PO BOX 778
BERKLEY, CA 94704-0778

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SHELDON ARONOWITZ
3577 BARLEY COURT
SAN JOSE, CA 95127-4401

COPY MAILED
APR 21 2004
OFFICE OF PETITIONS

In re Application of :
Sheldon Aronowitz and James Kimball :
Application No. 10/697,506 :
Filed: October 29, 2003 :
Title of Invention: :
VAPORIZATION AND HANDLING OF METALS :
FOR USE IN SEMICONDUCTOR PROCESSING :

LETTER

Dear Mr. Aronowitz:

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: James E. Austin
BEYER WEAVER & THOMAS
PO BOX 778
BERKLEY, CA 94704-0778

UNITED STATES 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.

LSI Logic Corporation
1621 Barber Lane
MS: D-106 Legal
Milpitas, CA 95035

COPY MAILED
MAR 25 2004
OFFICE OF PETITIONS

In re Application of :
James Kimball, et al. :
Application No. 10/697,507 :
Filed: October 29, 2003 :
Attorney Docket No. LSI1P223/03-0569 :

ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed October 29, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Sheldon Aronowitz
3577 Barley Court
San Jose, CA 95127-4401

COPY MAILED
MAR 25 2004
OFFICE OF PETITIONS

In re Application of
James Kimball; and Sheldon Aronowitz
Application No. 10/697,507
Filed: October 29, 2003
For: VAPORIZATION AND IONIZATION OF METALS FOR USE IN SEMICONDUCTOR PROCESSING

Dear Mr. Aronowitz:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Marianne E. Morgan

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: LSI Logic Corporation
1621 Barber Lane
MS: D-106 Legal
Milpitas, CA 95035

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Paul R. Audet
United States Surgical,
a Division of Tyco Healthcare Group LP
150 Glover Avenue
Norwalk, CT 06856

Mail Date: 04/21/2010

Applicant	: Helmut L. Kayan	: DECISION ON REQUEST FOR
Patent Number	: 7641094	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/697,523	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1830** 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

Date Mailed: July 15, 2008

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

Applicant: Johnson et al.
Appl. No.: 10/697,554
Filing Date: October 31, 2003
Title: METAL DEMOLITION SHEARS WITH INDEXABLE, INTEGRATED WEAR PLATE/PIERCING TIP
Attorney Docket No.: 081776-0306363
Pub. No.: US 2005/0091852 A1
Pub. Date: May 5, 2005

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on July 14, 2008, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, **as a Pre-Grant publication submission.**

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Program & Management Analyst
Office of Data Management

Adjustment date: 07/15/2008 KKING1
07/14/2008 INTEFSW 00007830 033975 10697554
01 FC:1504 300.00 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

Paper No. None

DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK NY 10018

COPY MAILED
JUL 26 2006
OFFICE OF PETITIONS

In re Application of :
Najla Guthrie et al. :
Application No. 10/697,563 : DECISION ON PETITION
Filed: October 31, 2003 : UNDER 37 C.F.R. §1.181
Attorney Docket No.: 182718- :
335142 :
Title: USE OF POLYMETHOXYLATED :
FLAVONES FOR TREATING INSULIN :
RESISTANCE :

This is a decision on the petition filed on May 8, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. §1.113 in a timely manner to the final Office action mailed August 8, 2005, which set a shortened statutory period for reply of three (3) months. An after final amendment was received on December 12, 2005, along with a one-month extension of time, and an advisory action was mailed on January 13, 2006. No additional extensions of time under the provisions of 37 C.F.R. §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on December 9, 2005. A notice of abandonment was mailed on April 19, 2006.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. §1.8(b) sets forth, *in toto*:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a)

of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

With the present petition, Petitioner has asserted that a Request for Continued Examination (RCE) was filed on February 8, 2006, along with a three-month extension of time. Petitioner has submitted a copy of this submission, and it is noted that it contains a certificate of mailing dated February 8, 2006.

Certificate of mailing practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous facsimile transmission, provided an additional copy of the previously submitted correspondence, however he has not included a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely transmission. It is noted that the certificate of mailing was executed by a Ms. Marina Krioutchkova, and it does not appear that a statement from this individual has been submitted with the present petition.

Fortunately, Petitioner has further submitted a postcard receipt which evinces the receipt of the RCE in the Office on February 13, 2006.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. Considering the facts and circumstances of the delay at issue, as set forth on petition,

it is concluded that petitioner has met his burden of establishing that a submission was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the RCE which was received with the present petition can be processed, along with the submission: the amendment which was received on December 12, 2005.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JUN 0 7 2005

OFFICE OF PETITIONS

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
Frank Saggio et al	:	
Application No. 10/697,564	:	ON PETITION
Filed: October 31, 2003	:	
Attorney Docket No. 028338-0112	:	

This is a decision on the petition, filed June 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 10, 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 3644 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OIPE
SEP 07 2005
PATENT & TRADEMARK OFFICE

COPY MAILED

JUN 07 2005

OFFICE OF PETITIONS

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
Frank Saggio et al	:	
Application No. 10/697,564	:	ON PETITION
Filed: October 31, 2003	:	
Attorney Docket No. 028338-0112	:	

This is a decision on the petition, filed June 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 10, 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 3644 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).

OIPE JC98
FEB 04 2005
PATENT & TRADEMARK OFFICE

1464 IFW

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/697,570	Confirmation No. 8422
Applicant(s)	:	Nicholas Gerald GREY	
Filed	:	October 31, 2003	
TC/A.U.	:	1746	
Examiner	:	Frankie L. Stinson	
Title	:	SURFACE CLEANING APPARATUS	
Docket No.	:	ERPC.117628	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-145

PETITION TO MAKE SPECIAL UNDER 37 CFR § 1.102(d)
ON THE BASIS OF ACTUAL INFRINGEMENT

Dear Sir:

Applicant requests that application 10/697,570 be examined on an expedited basis by way of grant of this Petition. This Petition is accompanied by an Information Disclosure Statement and the Petition fee under 37 § CFR 1.17(h).

This request is based on actual infringement. Further to that regard, the undersigned states as follows:

1. It is believed that there is an infringing device or product actually on the market or method in use. The device was previously purchased on behalf of the undersigned. Copies of pictures of the actually infringing device are attached to this Petition.

2. A rigid comparison of the device believed to be infringing the claims of this application has been made against the claims, and in the opinion of the undersigned, at least some of the claims of this application are unquestionably infringed. Note that in two of the pictures of the infringing device, arrows have been included to more clearly indicate the presence in the infringing device of the cleaning strip element recited in the claims of this application.

03/04/2005 ASINGLET 00000006 192112 10697570

PETITION GRANTED
Richard Crispino
Richard Crispino
Special Program Examiner
TC 1700
MAR 9 2005

119645v1

01 FC:1464 130.00 DA

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Richard D. Jordan
Womble Carlyle Sandridge & Rice PLLC
8065 Leesburg Pike
4th Floor
Tysons Corner VA 22182-2738

COPY MAILED

JAN 1 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Nicholas Gerald Grey	:	
Application No. 10/697,570	:	ON PETITION
Filed: October 31, 2003	:	
Attorney Docket No. 100103.52885US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the requirement for corrected drawings mailed June 18, 2007, which set a period for reply of Sixty (60) days. Accordingly, by operation of law, the above-identified application became abandoned on August 18, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required drawings; (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the drawings are accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Richard D. Jordan
Womble, Carlyle, Sandridge & Rice, PLLC
P.O. Box 7073,
Atlanta, Georgia 30357-0037

UNITED STATES 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
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

COPY MAILED

DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of
Steven W. Trovinger et al
Application No. 10/697,572
Filed: October 30, 2003
Attorney Docket No. 10991471-11

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 22, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/162,844, filed September 29, 1998, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on October 30, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration

of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center Art Unit 3651 for appropriate action on the amendment filed September 22, 2004, 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

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

PAMELA R. CROCKER
PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

COPY MAILED

JAN 10 2006

OFFICE OF PETITIONS

In re Application of	:	
John A. Lebens, et al.	:	
Application No. 10/697,595	:	ON PETITION
Filed: October 30, 2003	:	
Attorney Docket No. 87125PCW	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 19, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 3, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 6, 2005.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition and publication fees; and (3) an adequate statement of unintentional delay. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Microfabrica Inc.
1103 W. Isabel St.
Burbank CA 91506

COPY MAILED

FEB 2 2 2005

OFFICE OF PETITIONS

In re Application of Cohen Application No. 10/697,598 Filed: October 29, 2003 Attorney Docket No. P-US083-A-MG For: MEDICAL DEVICES AND EFAB METHODS AND APPARATUS FOR PRODUCING THEM	DECISION ON PETITION

This is a decision on the petition, filed November 15, 2004 (certificate of mailing date November 11, 2004), requesting a partial withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed September 14, 2004, insofar as it states that Figure 8 was not filed on October 29, 2003. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) is **DISMISSED**.

The application was filed on October 29, 2003. On September 14, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioner that Figure 8 appeared to have been omitted. In addition, the Notice required applicant to submit an executed oath/declaration and a surcharge for its late filing.

On November 15, 2004 (certificate of mailing date November 11, 2004), the instant petition was filed.

Petitioner requests an October 29, 2003 filing date for Figure 8 on the basis that the allegedly omitted figure was received in the Patent and Trademark Office (PTO) on October 29, 2003. In support, the petition is accompanied by a copy of applicant's postcard receipt showing an Office of Initial Patent Examination generated barcode showing October 29, 2003 as the date of receipt. The postcard lists:

1) Utility Patent Application Transmittal (4 pages)
2) Provisional Patent Application & Coversheet (29 pages)
3) Certificate of Mailing (1 page)

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. MPEP 503.

The itemized postcard in this case was not properly itemized. As stated in MPEP 503, "[M]erely listing on the postcard..."patent application" will not serve as a proper receipt for each of the required components of an application. ...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."

Since Figure 8 cannot be proved to be one of the papers filed on October 29, 2003, the application cannot be accorded a October 29, 2003 filing date with Figure 8 as a part of the original disclosure of this application. The $130.00 petition fee will be charged to deposit account no. 50-2123.

Petitioner may still submit Figure 8 and a petition under 37 CFR 1.182 requesting a filing date as of the date Figure 8 was filed.

If petitioner does not select the above option, petitioner must either (1) file an amendment to the specification deleting references to missing Figure 8 prior to the first USPTO action in order to avoid further delays in the examination of the application or (2) in the alternative, submit Figure 8 as an amendment to the drawings. Any such amendment will, of course, be reviewed by the examiner for new matter compared to the original specification filed on October 29, 2003. See MPEP 608.02(a).

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 29, 2003. Figure 8 will **not** be considered part of the original filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICROFABRICA INC.
ATT: DENNIS R. SMALLEY
7911 HASKELL AVENUE
VAN NUYS CA 91406

COPY MAILED

MAR 15 2007

OFFICE OF PETITIONS

In re Application of :
Adam L. Cohen :
Application No. 10/697,598 : ON PETITION
Filed: October 29, 2003 :
Attorney Docket No. P-US083-A-MG :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 18, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 10, 2006, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was attempted, but there was insufficient funds in the deposit account. Accordingly, the application became abandoned on April 11, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 1.

A petition to revive cannot be granted where there is an outstanding requirement. In the instant case, there was no response to the January 10, 2006 Office action. A courtesy copy of this Office action is being mailed along with this decision. Accordingly, the petition to revive cannot be granted until the response to the Office action is received.

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 April Wise at (571) 272-1642.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: January 10, 2006 non-final Office action

5

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.
10/697,598	10/29/2003	Adam L. Cohen	P-US083-A-MG	7855

32107 7590 01/10/2006

MICROFABRICA INC.
ATT: DENNIS R. SMALLEY
7911 HASKELL AVENUE
VAN NUYS, CA 91406

EXAMINER
STEWART, ALVIN J

ART UNIT	PAPER NUMBER
3738	

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/697,598	COHEN, ADAM L.
	Examiner	Art Unit
	Alvin J. Stewart	3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 November 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5* is/are pending in the application.

4a) Of the above claim(s) *1 and 5* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-4* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *29 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

Election/Restrictions

Applicant's election of Group II in the reply filed on November 01, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 1 and 5 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 01, 2005.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 2 is rejected under 35 U.S.C. 102(e) as being anticipated by Anson US Patent Pub. 2004/0167614 A1.

Anson discloses a stent having expandable capabilities provided by structural elements that transition from an orientation having a radial component to an orientation having less of a radial component having a radial component (see Figs. 7 & 8; and paragraph 43).

Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by Greenhalgh US Patent 6,159,239.

Greenhalgh discloses a bifurcated stent having a first portion extending along a first vessel, a second portion extending along a second vessel and a common portion extending along a vessel that joints the first and second vessels.

Claim 4 is rejected under 35 U.S.C. 102(e) as being anticipated by Hossainy et al US Patent 6,379,381.B1.

Hossainy discloses a stent having struts and wherein at least a portion of the struts have pockets located therein with passages (see figs. 1-3B; the outer surface opening discloses as D2 or D3 have been interpreted as the pockets and the length of the opening D1 has been interpreted as the passages).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J. Stewart whose telephone number is 571-272-4760. The examiner can normally be reached on Monday-Friday 7:00AM-5:30PM(1 Friday B-week off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A. Stewart
ALVIN J. STEWART
PRIMARY EXAMINER
Art Unit 3738

January 05, 2006.

Notice of References Cited	Application/Control No. 10/697,598	Applicant(s)/Patent Under Reexamination COHEN, ADAM L.	
	Examiner Alvin J. Stewart	Art Unit 3738	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2004/0167614 A1	08-2004	Anson, Antony Walter	623/001.15
*	B	US-6,159,239 A	12-2000	Greenhalgh, E. Skott	623/1.13
*	C	US-6,379,381 B1	04-2002	Hossainy et al.	623/1.42
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

AUG 16 2007

OFFICE OF PETITIONS

MICROFABRICA INC.
ATT: DENNIS R. SMALLEY
7911 HASKELL AVENUE
VAN NUYS, CA 91406

In re Application of	:	
Adam L. Cohen	:	
Application No. 10/697,598	:	ON PETITION
Filed: October 29, 2003	:	
Attorney Docket No. P-US083-A-MG	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3738 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GOODWIN PROCTER LLP
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025

MAILED

FEB 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Austin Gurney	:	
Application No. 10/697,599	:	LETTER REGARDING
Filed: October 29, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. GNE-0125A	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705(b))" filed December 10, 2008. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **540 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 8, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 541 days. On December 12, 2008, applicants submitted the instant comment. Applicants disclose that they believe that the patent term adjustment indicated on the Determination of Patent Term Adjustment is incorrect and should be set at 540 days. Applicants state that the USPTO incorrectly entered the date of receipt of the Request for Continued Examination (RCE) as October 29, 2007, instead of the correct date of October 30, 2007.

A review of the application history indicates that applicants are correct. The Office incorrectly entered the date of receipt

of the RCE as October 29, 2007, instead of October 30, 2007. Thus, the date of October 30, 2007, not October 29, 2007, should have been used for the purpose of calculating patent term adjustment. Accordingly, the period of adjustment of the term of the patent should have been reduced by 62 days (not 61 days), counting 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, August 30, 2007, and ending on the date the reply was filed, October 30, 2007. See 37 CFR 1.704(b). The period of reduction of 61 days will be removed and a period of reduction of 62 days will be entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **540 days**.

As this letter was submitted to advise the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Tuesday
Date: 2/10/2009

PALM INTRANET

Time: 16:23:39

PTA Calculations for Application: 10/697599			
Application Filing Date:	10/29/2003	PTO Delay (PTO):	658
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	117
Post-Issue Petitions:	0	Total PTA (days):	540
PTO Delay Adjustment:	-1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
82	02/10/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		62	
81	02/10/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	61		
68	10/08/2008	MAIL NOTICE OF ALLOWANCE	47		52
67	10/06/2008	ISSUE REVISION COMPLETED			
66	10/06/2008	DOCUMENT VERIFICATION			
65	09/30/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	09/30/2008	CASE DOCKETED TO EXAMINER IN GAU			
63	09/30/2008	EXAMINER'S AMENDMENT COMMUNICATION			
62	09/30/2008	NOTICE OF ALLOWABILITY			
61	09/30/2008	MAIL ADVISORY ACTION (PTOL - 303)			
55	08/12/2008	ADVISORY ACTION (PTOL-303)			
54	05/21/2008	NOTICE OF APPEAL FILED			
53	05/06/2008	DATE FORWARDED TO EXAMINER			
52	04/22/2008	AMENDMENT AFTER FINAL REJECTION			
51	02/26/2008	MAIL FINAL REJECTION (PTOL - 326)			
50	02/19/2008	FINAL REJECTION			
49	08/02/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	12/03/2007	DATE FORWARDED TO EXAMINER			
47	10/29/2007	RCE- AF PROCESSED			
46	12/03/2007	DATE FORWARDED TO EXAMINER			
45	10/29/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		61	36
44	12/03/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
43	10/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			

41	10/30/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
40	08/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	08/12/2007	DATE FORWARDED TO EXAMINER			
38	08/02/2007	AMENDMENT AFTER FINAL REJECTION			
37	08/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	05/29/2007	MAIL FINAL REJECTION (PTOL - 326)	171		32
35	05/28/2007	FINAL REJECTION			
34	07/18/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	03/19/2007	DATE FORWARDED TO EXAMINER			
32	08/09/2006	RESPONSE AFTER NON-FINAL ACTION		56	28
31	08/09/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	07/18/2006	REFERENCE CAPTURE ON IDS			
29.7	07/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	07/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	03/14/2006	MAIL NON-FINAL REJECTION	440		-1
27	02/21/2006	NON-FINAL REJECTION			
26	01/25/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	01/18/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24.7	01/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	01/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	11/29/2005	CASE DOCKETED TO EXAMINER IN GAU			
22	07/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	01/18/2005	REFERENCE CAPTURE ON IDS			
20.7	01/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	01/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	10/18/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	06/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

17	06/04/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	05/05/2004	APPLICATION RETURN FROM OIPE			
15	05/05/2004	APPLICATION RETURN TO OIPE			
14	05/05/2004	APPLICATION DISPATCHED FROM OIPE			
13	05/05/2004	APPLICATION IS NOW COMPLETE			
12	04/21/2004	ADDITIONAL APPLICATION FILING FEES			
11	04/21/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
10	04/30/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
9	02/23/2004	SEQUENCE ERRORS			
8	10/29/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
7	01/29/2004	CLEARED BY L&R (LARS)			
6	01/21/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
5	01/21/2004	CASE CLASSIFIED BY OIPE			
4	12/02/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	11/14/2003	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
2	10/29/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	10/29/2003	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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/20/09

Paper No.: _____

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: 10697599 Patent No.: 7510709

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Valerie Joel

Certificates of Correction Branch

703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes **do not** apply.
- ☐ Denied — State the reasons for denial below.

Comments: _____

SPE

1646

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

GOODWIN PROCTER LLP
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025

COPY MAILED

JUL 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,510,709	:	
Austin L. Gurney	:	
Issue Date: March 31, 2009	:	DECISION ON REQUEST FOR
Application No. 10/697,599	:	RECONSIDERATION OF
Filed: October 29, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. GNE-0125	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) filed Monday, June 1, 2009, which is properly treated under 37 CFR 1.705(d). Patentees request that the patent term adjustment determination for the above-identified patent be corrected from five hundred forty (540) days to seven hundred thirty-five (735) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 540 days.

On March 31, 2009, the above-identified application matured into U.S. Patent No. 7,510,709 with a revised patent term adjustment of 540 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees aver that the correct number of days of patent term adjustment is 735 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees contend that pursuant to Wyeth, periods of delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B)

overlap only if they occur on the same calendar day(s). Patentees state that the total period of Office delay is the sum of 366 days of delay under 37 CFR 1.702(b) ("Three Year Delay")[1] and 658 days of delay under 37 CFR 1.702(a) ("examination delay") to the extent that these periods of delay are not overlapping. Patentees contend that the periods of delay attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap by 171 days (as calculated by patentees). Patentees indicate that this overlapping period is the 171 days from December 9, 2006 to May 29, 2007. Therefore, patentees assert that they are entitled to the sum of 658 (440 + 171 + 47) days of examination delay plus 366 days of Three Year Delay minus 171 days of overlap, reduced by 118 days of applicant delay, for a total patent term adjustment of 735 days.

Patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

---

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b)[.]

As explained in *Explanation of 37 CFR 1.703(f)*[2] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the

---

[2] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together, the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

It is noted, however, that delays resulting in the Office's failure to meet the time frames specified in 35 U.S.C. 154 (b)(1)(A) (the "fourteen-four-four-four" provisions) are not always overlapping with a delay resulting in the Office's failure to issue a patent within the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) because not all application pendency time is counted toward this three-year period. See 35 U.S.C. 154(b)(1)(B)(i)-(iii).

In this instance, all application pendency time is not counted toward the three-year period. A request for continued examination was filed on October 30, 2007. The period subsequent to the filing of the RCE is not included in the three-year time frame specified in 35 U.S.C. 154(b)(1)(B). See 35 U.S.C. 154(b)(1)(B)(i). Thus, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period from the filing of the application on October 29, 2003, to the filing of the RCE on October 30, 2007. Thus, only the 611 days[3] of patent term adjustment accorded prior to the filing of the RCE pursuant

[3] The Office did not mail a non-final Office action until March 14, 2006, 14 months and 440 days after the application was filed on October 29, 2003. Additionally, the Office did not respond to the reply of August 9, 2006, until the mailing of a final Office action on May 29, 2007, 4 months and 171 days later.

to 37 CFR 1.702(a)(1) and (a)(2)[4] are considered in determining overlap. The 47 days[5] for Office delay under 37 CFR 1.702(a)(2), occurring after the filing of the RCE is not considered. The 366 days attributed to Office delay pursuant to 37 CFR 1.702(b) for failure to issue the patent within three years after the filing of the application is determined to overlap with the 611 days attributed to Office delay pursuant to 1.702(a)(1) and (a)(2). 658 (611 + 47) days is the actual number of days issuance of the patent was delayed. Accordingly, at issuance, the Office properly entered no additional period of adjustment, having considered the 366 days of Office delay under the three-year pendency provision.

In view thereof, the Office affirms the revised determination of patent term adjustment at the time of the issuance of the patent is 540 days (658 (611 + 47) days of Office delay - 118 days of applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to the Deposit Account as authorized. No additional fees are required.

---

[4] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;
>
> (2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken[.]

[5] The Office did not respond to the reply of April 22, 2008, until the mailing of the Notice of Allowance on October 8, 2008, 4 months and 47 days later.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

SEP 2 2 2005

OFFICE OF PETITIONS

In re Application of
Gregory Wolff
Application No. 10/697,606
Filed: October 29, 2003
Attorney Docket No. 015358-005210US

Decision on Petition

This is a decision on the petition filed June 15, 2005, requesting, in effect, that Figure 1 filed on June 15, 2005, be entered as part of the original disclosure.

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 application was filed on October 29, 2003. On May 12, 2005, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of October 29, 2003, and advising applicants that Figure 1 appeared to have been omitted.

In response, the present petition was filed. Petitioner alleges Figure 1 was filed with the original application.

All the evidence present in the file has been carefully considered, but is not persuasive that Figure 1 was submitted with the original application.

The last portion of MPEP 513 states,

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application) ... The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt ....

Although a copy of a stamped postcard receipt has been filed, it does not establish Figure 1 was filed with the original application.

The postcard receipt verifies the receipt of "No. of Sheets of Drawings: 6." The postcard receipt verifies the receipt of "6 Sheets Formal Drawings."

Petitioner alleges copies of 6 sheets of drawings from the parent application were filed and 6 sheets of Formal drawings were filed. However, the postcard receipt does not verify receipt of 12 sheets of drawings. If the application contained six sheets of drawings, then the Office would not have marked any portion of the postcard as incorrect. If six sheets were filed, then a postcard stating the number of sheets of drawings was 6 would have been correct. If six sheets of

drawings were filed, the Office would have considered the statement that 6 Sheets Formal Drawings were filed to be correct. The Office does not check to see if drawings are informal or formal. MPEP 608.02(b) states, "The Office no longer considers drawings as formal or informal. Drawings are either acceptable or not acceptable." The employee verifying receipt of the items on the postcard would have only verified the presence of six sheets of drawings.

The postcard verifies that six sheets of drawings were filed. The file only includes fix sheets of drawings identical to the five sheets of formal drawings filed with the instant petition. Therefore, the evidence establishes the Office lost one drawing sheet but does not establish which of the other drawing sheets was filed but misplaced. For example, the drawing sheet lost may have been a informal version of Figure 2. Petitioner has failed to prove that the formal drawing sheet containing Figure 1 was the drawing sheet lost.

Although the postcard fails to establish Figure 1 was filed with the original application, petitioner still has a remedy available. The application incorporates by reference the contents of the parent application. Petitioner states Figure 1 is present in the parent application. Therefore, petitioner may submit an amendment adding Figure 1. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a).

If petitioner does not file an amendment to add Figure 1, or request reconsideration of the instant decision, then petitioner should file an amendment to the specification deleting references to the missing pages should be filed prior to the first USPTO action in order to avoid further delays in the examination of the application.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAMES E REEBER
ENIKIA LLC
948 US HIGHWAY 22
NORTH PLAINFIELD NJ 07060

COPY MAILED

OCT 20 2004

OFFICE OF PETITIONS

In re Application of	:	
Oleg Logvinov, Fred Skalka	:	
Application No. 10/697,629	:	
Filed: October 29, 2003	:	DECISION ACCORDING STATUS
Attorney Docket No. 102362-037 US	:	UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a), filed September 9, 2004.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on October 29, 2003, without an executed oath or declaration. Accordingly, on February 9, 2004, the Initial Patent Examination Division mailed a Notice to File Missing Parts, requiring an executed oath or declaration and a surcharge for its late filing.

In reply, applicants filed the instant petition on September 9, 2004, made timely by obtaining a five month extension of time. Accompanying the petition is a 37 CFR 1.63 declaration signed by Oleg Logvinov, but with the signature block for Fred Skalka left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has included a declaration of James Reeber, as well as copies of e-mail correspondence between Reeber and Skalka. This evidence establishes that Skalka was presented with a copy of the declaration and power of attorney, yet made a express written refusal to sign. While the record does not indicate that Skalka was presented with a copy of the application papers, it is concluded based on the information presented on petition that Skalka understood what he was being asked to sign.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Norris, McLaughlin & Marcus
721 Route 202-206
Somerville, NJ 08876

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

WILLIAM COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

COPY MAILED

JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Vasilios Vasiadis :
Application No. 10/697,631 :
Filed: October 29, 2003 :
Attorney Docket No. VASIADIS-1 :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition, filed December 3, 2004, which is being treated under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on October 29, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/422,179, which was filed on October 29, 2002, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

Accordingly, having found that the petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the application is entitled to the benefit of the filing date 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. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that applicant has already received a corrected Filing Receipt which 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.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204.

The application is being forwarded to Technology Center AU 3653 for appropriate action on the amendment submitted December 3, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/422,179.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Frances M. Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Buskop Law Group, P.C.
1776 Yorktown
Suite 550
Houston, TX 77056

MAIL

APR 0 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Richard Glee Wood, et al. :
Application No. 10/697,636 :
Filed: October 30, 2003 :
For: PROCESS AND METHOD OF SCREENING :
AN INDIVIDUAL AT A POINT OF ENTRY TO :
A SECURE ENVIRONMENT TO ASCERTAIN A
RISK FACTOR

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 30, 2003 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a copy of Richard Glee Wood drivers license indicating 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BARRY E. BRETSCHNEIDER
MORRISON & FOERSTER LLP
SUITE 300
1650 TYSONS BOULEVARD
MCLEAN, VA 22102

COPY MAILED

MAR 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael Platten	:	
Application No. 10/697,655	:	ON PETITION
Filed: October 31, 2003	:	
Attorney Docket No. 22975-20022.00	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed March 19, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 20, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

DEC 01 2009

OFFICE OF PETITIONS

WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of	:	
Michael Weller, et al.	:	
Application No. 10/697,655	:	DECISION ON PETITION
Filed: October 31, 2003	:	TO WITHDRAW
Attorney Docket No. NGIO-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 March 25, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 all three certification boxes on the PTO/SB/83 form requesting to withdraw as attorney or agent of record. If the Power of Attorney filed January 12, 2009 was filed in error then the applicant/assignee must file a revocation power of attorney revoking the attorneys and/or agents of Wilson, Sonsini, Goodrich & Rosati.

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 Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **BOZICEVIC, FIELD & FRANCIS LLP**
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WILSON, SONSINI, GOODRICH &
ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Application of	:	DECISION ON
Weller et al.	:	REQUEST FOR
Patent Number: 7,531,575	:	RECONSIDERATION OF
Issue Date: 05/12/2009	:	PATENT TERM ADJUSTMENT
Application No. 10/697,655	:	and
Filing or 371(c) Date: 10/31/2003	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 10125-5176	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 13, 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 five hundred ninety-three (1593) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred ninety-three (1593) days is **GRANTED**.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being

mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand five hundred ninety-three **(1593)** days.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

CC: BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,531,575 B2

DATED : **May 12, 2009**

INVENTOR(S) : Weller 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 1186 days.

Delete the phrase "by 1186 days" and insert – by 1593 days--

Best Available Copy

WORKMAN | NYDEGGER
INTELLECTUAL PROPERTY ATTORNEYS

1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UTAH 84111
TELEPHONE: (801) 533-9800
FAX: (801) 328-1707
WEBSITE: HTTP://WWW.WNLAW.COM

OIPE JC66 APR 21 2005 PATENT & TRADEMARK OFFICE

CK D. NYDEGGER
ENT P. LORIMER
HOMAS R. VUKSINICK
URY R. LAYCOCK
NATHAN W. RICHARDS
VID R. WRIGHT
HN C. STRINGHAM
HN M. GUYNN
HARLES L. ROBERTS
ANA L. TANGREN
RIC L. MASCHOFF
HARLES J. VEVERKA
OBYN L. PHILLIPS
ICHARD C. GILMORE *
TERLING A. BRENNAN
L. BURNS ISRAELSEN
DAVID R. TODD
DAVID B. DELLENBACH
. DAVID GRIFFIN
ADRIAN J. LEE
FRASER D. ROY
CARL T. REED

R. PARRISH FREEMAN, JR.
PETER F. MALEN, JR.
L. REX SEARS, PH.D.
WILLIAM R. RICHTER
ERIC M. KAMERATH
ROBERT E. AYCOCK
JENS C. JENKINS
KEVIN W. STINGER
WILLIAM J. ATHAY
MICHAEL B. DODD
RYAN D. BENSON
SARA D. JONES
TICE KELLER
JANNA L. JENSEN
MATTHEW D. TODD
J. LAVAR OLDHAM
MICHAEL J. FRODSHAM
JOSEPH L. KRUPA
BRETT A. HANSEN
BRETT I. JOHNSON
MATTHEW A. BARLOW
WESLEY C. ROSANDER
ANDREW S. HANSEN
CHAD E. NYDEGGER
JOSEPH G. PIA
CLINTON E. DUKE
RYAN N. FARR *
JAMES B. BELSHE
KIRK R. HARRIS
KEELY SCHNEITER
MICHAEL M. BALLARD
DAVID A. JONES
SHANE K. JENSEN
JONATHAN M. BENNS, PH.D.

VERNON R. RICE §
OF COUNSEL

* Admitted only in California
§ Admitted only in Virginia

Express Mailing Label No: EV 660 686 675

PATENT APPLICATION
Docket No: 15436.441.9

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:		)
	James R. Biard, et al.	)
Serial No.:	10/697,660	) Art Unit: 1765
Conf. No.:	8412	)
Filed:	October 29, 2003	)
For:	LONG WAVELENGTH VCSEL DEVICE PROCESSING	)
Examiner:	Unknown	)

TRANSMITTAL FOR PETITION TO MAKE SPECIAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is a Petition to Make Special for entry in the above-identified patent application.

Dated this 20th day of April.

Respectfully submitted,

R. BURNS ISRAELSEN
Attorney for Applicant
Registration No. 42,685
Customer No. 022913

RBI:map
MAP0000000947V001

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 MAY - 3 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED

JAN 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Joe G. Tran et al	:	
Application No. 10/697,676	:	ON PETITION
Filed: October 30, 2003	:	
Attorney Docket No. TI-37297	:	

This is a decision on the petition, filed January 11, 2006, under 37 CFR 1.313(b) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

Petitioner should be aware that 37 CFR 1.313(b), is not the appropriate avenue to have an IDS considered after payment of the issue fee. The appropriate avenue is by way of a petition under 37 CFR 1.313(c).

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).

The instant petition is not accompanied by any of the above.

Petitioner may consider filing under 37 CFR 1.313(c)(2).

A response to this decision must be filed within **ONE MONTH** from the mail date of this letter.

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 facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: Randolf Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED

JAN 27 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Joe G. Tran et al :
Application No. 10/697,676 :
Filed: October 30, 2003 :
Attorney Docket No. TI-37297 :

This is a decision on the renewed petition, filed January 18, 2006, under 37 CFR 1.313(b) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

Petitioner filed a petition under 37 CFR 1.313(c)(2), on January 18, 2006. The petition was not accompanied by the required submission of an Request for Continued Examination(RCE) pursuant to 37 CFR 1.114 and the fee for the filing of an RCE.

Petitioner should also be aware of 37 CFR 1.4(c), where a separate paper is required for each distinct matter.

A response to this decision must be filed within **ONE MONTH** from the mail date of this letter.

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 facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: Randolf Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

FEB 27 2006

OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
PO BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of	:	
Joe G. Tran et al	:	
Application No. 10/697,676	:	ON PETITION
Filed: October 30, 2003	:	
Attorney Docket No. TI-37297	:	

This is a decision on the petition, filed February 24, 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 9, 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 1765 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PILLSBURY WINTHROP LLP
INTELLECTUAL PROPERTY GROUP
SUITE 200
11682 EL CAMINO REAL.
SAN DIEGO CA 92130-2092

COPY MAILED

APR. 2 0 2007

OFFICE OF PETITIONS

In re Application of :
Scott Pownall et al. :
Application No. 10/697,700 : ON PETITION
Filed: October 29, 2003 :
Attorney Docket No. 029996-0306374 :

This is a decision on the petition filed March 29, 2007, to revive the above identified application under 37 CFR 1.137(b)[1].

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned on July 31, 2006, for failure to file a timely response to a Restriction Requirement mailed June 27, 2006, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the expiration of the extendable period. Accordingly, a Notice of Abandonment was mailed January 26, 2007.

The petition fee in the amount of $750.00 has been applied to the finance records for the instant patent application.

A review of the record reveals that a five month extension of time was filed with the

---

[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)).

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 $1080.00 extension of time fee submitted with the petition on March 29, 2006, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 03-3975.

The response to the Restriction Requirement filed March 29, 2007 will be referred to Technology Center 1633 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

COPY MAILED

DEC 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Stanley N. COHEN, et al	:	
Application No. 10/697,720	:	DECISION ON PETITION
Filed: October 29, 2003	:	TO WITHDRAW
Attorney Docket No. FUNC-0027-CO5	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 19, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

Steven B. Kelber has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

APR 27 2010

OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Patent No. 7,157,090	:	
Issue Date: January 2, 2007	:	
Application No. 10/697,741	:	NOTICE
Filed: October 31, 2003	:	
Attorney Docket No. 11702-003006	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

COPY MAILED
MAR 07 2006
OFFICE OF PETITIONS

In re Patent No. 6,931,363	:	
Issued: 16 August, 2005	:	
Application No. 10/697,762	:	ON PETITION
Filed: 30 October, 2003	:	
Atty Dckt No. 17199	:	

This is a decision on the petition filed on 26 August, 2005, styled under 37 CFR 1.183, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

D Wood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

William O. Isaacs, II
King & Spalding LLP
45th Floor
191 Peachtree Street
Atlanta, GA

MAILED

JUL 02 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of:		
Theresa M. Deggendorf	:	DECISION ON
Application No.: 10/697,774	:	PETITION TO
Filed: October 30, 2003	:	MAKE SPECIAL
For: METHOD AND SYSTEM FOR TRACKING AND	:	(Pre-First Action
REPORTING AUTOMATED CLEARING HOUSE	:	Interview)
TRANSACTION STATUS	:	

This is a decision on applicant's petition filed May 21, 2004, to have this application made Special under MPEP 708.02, Accelerated Examination and the request for a Pre-First Office Action interview.

The petition and request meet the requirements of 37 CFR 1.102 and the Pilot Program announced March 31, 2004, and consequently, they are both granted.

This application is being forwarded to the examiner assigned to the case, who will call applicant within sixty days of the mailing of this decision to arrange for an interview which may be in person or by telephone. If you have not heard from the examiner within that time period, please contact the undersigned at 703 308-1020.

The examiner will prepare and have a First Office Action ready for mailing within thirty days of the date of the Interview.

John J. Love, Director
Technology Center 3600
703 308-1020

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Bruce Edward Hoffman	: DECISION ON REQUEST FOR
Patent Number	: 7653730	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/697,779	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1850** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 19 Dec 2007

TO SPE OF : ART UNIT 1657

SUBJECT : Request for Certificate of Correction on Patent No.: 7037711

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.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

SPE: 1657 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

MAILED

APR 27 2010

OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Patent No. 7,037,711	:	
Issue Date: May 2, 2006	:	
Application No. 10/697,782	:	NOTICE
Filed: October 30, 2003	:	
Attorney Docket No. 11702-003005	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

APR 27 2010

OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Patent No. 7,087,232	:	
Issue Date: August 8, 2006	:	
Application No. 10/697,784	:	NOTICE
Filed: October 30, 2003	:	
Attorney Docket No. 11702-003007	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

AUG 17 2005

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

In re Application of:
Rosen et al.
Serial No.: 10/697,828
Filed: October 29, 2003
Attorney Docket No.: UCAL-138DIV

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181(a) filed on July 6, 2005, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed December 1, 2004. The delay in responding to this petition is regretted, however, it has only just been brought to the attention of the deciding authority.

A review of the file history shows that the examiner mailed an Office action to applicants on December 1, 2004, setting a one-month statutory time period for reply. On June 7, 2005, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a timely response to the Office action was filed on June 1, 2005, as evidenced by the Certificate of Mailing date of June 1, 2005; and received by the USPTO on June 3, 2005, as evidenced by the return receipt stamped postcard identifying the papers filed. Applicants also requested and paid for a five-month extension of time.

In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED** retroactively as the application is no longer in abandoned status.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Bruce Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KEVIN D. MARTIN
8000 S. FEDERAL WAY
MS 01-525
BOISE, ID 83707-0006

COPY MAILED

JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Rudeck et al.	:	
Application No. 10/697,837	:	ON PETITION
Filed: October 28, 2003	:	
Attorney Docket No. 2002-0752.00/US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 27, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal and requisite fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARSHALL, GERSTEIN & BORUN, LLP
(MARVELL)
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO IL 60606-6357

COPY MAILED

FEB 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Daniel Yellin	:	
Application No. 10/697,853	:	DECISION GRANTING PETITION
Filed: October 30, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MP1483	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 8, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 14, 2007 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JAN 1 9 2005

OFFICE OF PETITIONS

KEITH KLINE
THE KLINE LAW FIRM, P.C.
14910 BONNER COURT
MORGAN HILL, CA 95037-5925

In re Application of	:	
Hsin-Fu Tseng et al	:	
Application No. 10/697,854	:	DECISION ON PETITION
Filed: October 29, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 586	:	

This is a decision on the petition, filed August 6, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition 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) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (1).

The instant petition fails to comply with item (1) above in that no notice or statement has been provided as to the filing date of the international application. Accordingly, before a decision can be rendered on the instant petition, petitioner must provide the filing date of the international application and must be accompanied by a renewed petition under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer 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

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE KLINE LAW FIRM, P.C.
14910 BONNER COURT
MORGAN HILL, CA 95037-5925

COPY MAILED

MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Hsin-Fu Tseng et al :
Application No. 10/697,854 :
Filed: October 29, 2003 :
Attorney Docket No. 586 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition, filed January 31, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on February 24, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/20/04

Michael J. Twomey
Hale & Dorr
60 State Street
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/697863 received on 03/29/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King
Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

INTERNATIONAL BUSINESS
MACHINES CORPORATION
c/o HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN, TX 78720

In re Application of

David Alan Hepkin :

Application No. 10/697,867

:

Filed: October 30, 2003

:

Attorney Docket No. AUS920030356US1

COPY MAILED

MAR 19 2007

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 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 November 15, 2005, 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 February 16, 2006

The amendment filed November 14, 2006, is noted.

The application is being forwarded to Technology Center 2100, GAU 2186 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/07/07

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/697894** Patent No.: **7122363**

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: At column 15, line 4, there are 2 occurrences of "GATCCG". It is unclear which should be changed. Other changes are approved. Also, Applicant should indicate column/line of the patent in the proposed correction. SS

SPE

1652
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

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

: NOTICE OF WITHDRAWAL

: FROM ISSUE
: UNDER 37 CFR 1.313(b)

MAILED

JUN 2 6 2009

Technology Center 2100

In re Application of
Marc S Carter
Application No.: 10/697,895
Filed: October 30, 2003
Attorney Docket No.: GB920020077US1
For: METHODS, APPARATUS AND COMPUTER PROGRAMS FOR VISUALIZATION AND MANAGEMENT OF DATA ORGANISATION WITHIN A DATA PROCESSING SYSTEM

The application is being withdrawn to permit reopening of prosecution, because the application contains at least one claim that is unpatentable. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Don Wong 571-272-1834.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jeffrey Gaffin
Director, Technology Center 2100
Computer Architecture, Software
And Electronic Commerce

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Marc S Carter	: DECISION ON REQUEST FOR
Patent Number	: 7627583	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/697,895	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1282** 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

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Steven Francis Best	: DECISION ON REQUEST FOR
Patent Number	: 7647355	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/697,899	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1473** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

COPY MAILED

JUN 2 2 2004

OFFICE OF PETITIONS

In re Application of
Caplan, et al.
Application No.: 10/697,907
Filed: October 29, 2003
Attorney Docket No.: ISAA0025
For: METHOD AND APPARATUS FOR CREATING AND EVALUATING STRATEGIES

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed April 30, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 29, 2003 without an executed oath or declaration. Accordingly, on January 30, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for their late filing.

In response, on April 30, 2004 , a petition for a one month extension of time and required fee, a declaration executed by 11 of 15 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A statement of facts by Rhonda Dunn, the patent administrator for the non-signers' former employee, accompanies the petition. Ms. Dunn explains that non-signing joint inventor Gary Sullivan received multiple copies of the above-identified application and declaration for the above-identified application, but he did not respond to the many requests that he sign the declaration for patent application. The statement of facts of Attorney Michael A. Glenn and accompanying exhibits establish that the three other non-signing inventors, John Perlis, Nina Shikaloff, and Aush Thaker, refused to review the declaration and application papers, let alone sign the declaration, unless certain demands were met. Their attorney, William M. Scherer, returned the unread application papers and declaration on his clients' behalf. The evidence presented shows that the inventors were given the opportunity to review the application papers, but declined to do so. They have constructively refused to join in the filing of the application.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

BEST AVAILABLE COPY

This petition lacks items (2) and (4) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration is not acceptable because it does not include identifying information for Inventors Perlis and Thaker. **Information for all inventors must be listed on a new declaration**. This information includes: Given Name(s), Family Name, Citizenship, Residence, and Mailing Address. 37 CFR 1.63(a) (2)-(3) and 37 CFR 1.63(c)(1) **The available inventors must execute this new declaration on behalf of the non-signing inventors.** The non-signing inventors signature blocks should be left blank.

As to item (4), a clear statement of the inventors' last known address is missing and is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions – E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

COPY MAILED

SEP 2 2 2004

OFFICE OF PETITIONS

In re Application of
Caplan, et al.
Application No.: 10/697,907
Filed: October 29, 2003
Attorney Docket No.: ISAA0025
For: METHOD AND APPARATUS FOR CREATING AND EVALUATING STRATEGIES

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed August 23, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 29, 2003 without an executed oath or declaration. Accordingly, on January 30, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for their late filing.

In response, on April 30, 2004 , a petition for a one month extension of time and required fee, a declaration executed by 11 of 15 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A statement of facts by Rhonda Dunn, the patent administrator for the non-signers' former employee, accompanies the petition. Ms. Dunn explains that non-signing joint inventor Gary Sullivan received multiple copies of the above-identified application and declaration for the above-identified application, but he did not respond to the many requests that he sign the declaration for patent application. The statement of facts of Attorney Michael A. Glenn and accompanying exhibits establish that the three other non-signing inventors, John Perlis, Nina Shikaloff, and Aush Thaker, refused to review the declaration and application papers, let alone sign the declaration, unless certain demands were met. Their attorney, William M. Scherer, returned the unread application papers and declaration on his clients' behalf. The evidence presented shows that the inventors were given the opportunity to review the application papers, but declined to do so. They have constructively refused to join in the filing of the application.

Applicants' petition was dismissed on June 2, 2004 because the declaration did not contain identifying information for all inventors and a complete statement of the last known address for the non-signing inventors was not provided.

The instant reconsideration petition was timely filed on August 23, 2004.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks items (2) and (4) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration is not acceptable because it does not include all identifying information for Inventors Perlis and Thaker. The citizenship of each inventor must be included on the oath or declaration. It is noted that the declarations filed on October 29, 2003 and April 30, 2004 listed the citizenship of Inventors Perlis and Thaker. The latest declaration deletes this information. As listing the citizenship for each inventor is a statutory requirement under 35 U.S.C. §115, it cannot be waived. If citizenship for the non-signing inventors has not been definitively ascertained petitioners' best information with respect to citizenship should be used.

Information for Inventor Perlis is still absent from the declaration. Since petitioners are in contact with Inventor Perlis' attorney, it is assumed that Inventor Perlis' address could be obtained from his attorney. If not, petitioners should at least attempt to ascertain his address by searching the Internet. It is assumed he resides in the Bay Area.

As stated in the previous decision: Information for all inventors must be listed on a new declaration. This information includes: Given Name(s), Family Name, Citizenship, Residence, and Mailing Address. 37 CFR 1.63(a) (2)-(3) and 37 CFR 1.63(c)(1) **The available inventors must execute this new declaration on behalf of the non-signing inventors.** The non-signing inventors signature blocks should be left blank.

As to item (4), a clear statement of Inventor Perlis' last known address is still missing and is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

By FAX: (703) 872-9306

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

COPY MAILED

DEC 3 0 2004

OFFICE OF PETITIONS

In re Application of
Caplan, et al.
Application No.: 10/697,907
Filed: October 29, 2003
Attorney Docket No.: ISAA0025
For: METHOD AND APPARATUS FOR CREATING AND EVALUATING STRATEGIES

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the second reconsideration petition under 37 CFR 1.47(a), filed December 15, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 29, 2003 without an executed oath or declaration. Accordingly, on January 30, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for their late filing.

In response, on April 30, 2004 , a petition for a one month extension of time and required fee, a declaration executed by 11 of 15 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A statement of facts by Rhonda Dunn, the patent administrator for the non-signers' former employee, accompanies the petition. Ms. Dunn explains that non-signing joint inventor Gary Sullivan received multiple copies of the above-identified application and declaration for the above-identified application, but he did not respond to the many requests that he sign the declaration for patent application. The statement of facts of Attorney Michael A. Glenn and accompanying exhibits establish that the three other non-signing inventors, John Perlis, Nina Shikaloff, and Aush Thaker, refused to review the declaration and application papers, let alone sign the declaration, unless certain demands were met. Their attorney, William M. Scherer, returned the unread application papers and declaration on his clients' behalf. The evidence presented shows that the inventors were given the opportunity to review the application papers, but declined to do so. They have constructively refused to join in the filing of the application.

Applicants' petition was dismissed on June 22, 2004 because the declaration did not contain identifying information for all inventors and a complete statement of the last known address for the non-signing inventors was not provided.

A reconsideration petition was timely filed on August 23, 2004. The reconsideration petition was

dismissed on September 22, 2004 for failure to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 and failure to present the last known address for Inventor Perlis.

The instant petition and a request for a one month extension of time and required fee was filed on December 15, 2004.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration is not acceptable for two reasons.

First, petitioners have not submitted a new declaration which contains the signatures of the fifth named inventor, Brendan Del Favero, and the seventh named inventor, Robert Mun-Cheong Fung. Their respective signature blocks are blank on all copies of the new declaration submitted with the second reconsideration petition.

Second, the ninth named inventor, Jun Hua, has altered his information without initialing and dating the changes. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a).

Fortunately, the deficiencies or inaccuracies relate to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Hua can correct/clarify his respective information on a supplemental declaration identifying the entire inventive and their information, but entity but signed only by him.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
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

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

COPY MAILED

MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of
Caplan, et al.
Application No.: 10/697,907
Filed: October 29, 2003
Attorney Docket No.: ISAA0025
For: METHOD AND APPARATUS FOR CREATING AND EVALUATING STRATEGIES

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the third reconsideration petition under 37 CFR 1.47(a), filed February 24, 2005.

The petition is granted.

Petitioners have shown that the non-signing inventors, Sullivan, Perlis, Shikaloff, and Thaker, have constructively refused to join in the filing of the above-identified application after having been presented with the application papers.. Specifically, the statement of facts by Rhonda Dunn, the patent administrator for the non-signers' former employee, explains that non-signing joint inventor Gary Sullivan received multiple copies of the above-identified application and declaration for the above-identified application, but he did not respond to the many requests that he sign the declaration for patent application. The statement of facts of Attorney Michael A. Glenn and accompanying exhibits establish that the three other non-signing inventors, John Perlis, Nina Shikaloff, and Aush Thaker, refused to review the declaration and application papers, let alone sign the declaration, unless certain demands were met. Their attorney, William M. Scherer, returned the unread application papers and declaration on his clients' behalf. The evidence presented shows that the inventors were given the opportunity to review the application papers, but declined to do so. They have constructively refused to join in the filing of the application. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center GAU 3623 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GEAM - SILICONES - 60SI
IP LEGAL
ONE PLASTICS AVENUE
PITTSFIELD MA 01201-3697

COPY MAILED

JUL 14 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Glatzer, et al. :
Application No. 10/697,919 :
Filed: October 30, 2003 :
Attorney Docket No. US 142759-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed April 19, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 20, 2004. A Notice of Abandonment was mailed on January 6, 2005.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Huang Ming
P.O. Box 166-13
Taipei, Taiwan R.O.C.
AIR MAIL

COPY MAILED

SEP 27 2005

OFFICE OF PETITIONS

In re Application of :
Huang Ming :
Application No. 10/697,934 : ON PETITION
Filed: October 31, 2003 :
Attorney Docket No. BP3029-H47-P15 :

This is a decision on the petition under 37 CFR 1.137(a), filed August 16, 2005, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." Extensions of time under 37 CFR 1.136(a) are permitted. No additional fee is required for filing a "Renewed Petition under 37 CFR 1.137(a)."

On March 31, 2004, the Office mailed a Notice of Allowance and Fee(s) Due and a Notice of Allowability, which set a three-month statutory period for reply. The Notice of Allowance indicated that applicant must submit a $665.00 issue fee and a $300.00 publication fee by June 30, 2004, to avoid abandonment. The Notice of Allowability required applicant to submit Corrected Drawings (as "replacement drawings") including changes required by the Examiner's Amendment attached to the Notice. Applicant did not submit a response to either Notice within the specified period for reply. Accordingly, the application became abandoned on July 1, 2004. A Notice of Abandonment was mailed on August 2, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in

compliance with § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) The petition fee as set forth in 37 CFR 1.17(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 set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

This petition lacks items (1) and (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[1] 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.[2]

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).[3] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

---

[1] 35 U.S.C. § 133.

[2] 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).

[3] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

As to requirement (1):

As previously stated, on March 31, 2004, the Office mailed a Notice of Allowability requiring applicant to submit Corrected Drawings (as "replacement drawings") including changes required by the Examiner's Amendment attached to the Notice, within three months of the mailing date of that Notice. Upon a review of the record, it does not appear that applicant submitted a proper and timely response to the Notice of Allowability. With any renewed petition to revive, applicant must comply with the requirements set forth in the Notice of Allowability.

As to requirement (3):

It appears that applicant is asserting that the delay was unavoidable due to non-receipt of the Notice of Allowance and Notice of Allowability mailed on March 31, 2004. Applicant states that he submitted a change of correspondence with the USPTO in application No. 09/276,639, as early as January 7, 2004.

A review of the written record indicates that the Notice of Allowance and the Notice of Allowability were properly mailed to the address of record as it existed on March 31, 2004. Although applicant asserts that he submitted a change of correspondence address with the USPTO in another application as of January 7, 2004, the record indicates that applicant did not submit a change of correspondence address in this application until November 29, 2004, over eight months the mailing of the Notices. Therefore, it appears that applicant did not receive the Notice of Allowance and the Notice of Allowability because he failed to file a timely change of correspondence address with the USPTO.

The belated notification to the USPTO of a change of correspondence address does not constitute proper notification as to establish unavoidable delay. Applicant is responsible for promptly informing the Office of any change of address. The Office further notes that where an application becomes abandoned as a consequence of a change of correspondence address an adequate showing of "unavoidable" delay requires a showing that applicant exercised due care to promptly notify the Office of the change of address and file a timely notification of the change of address in the application at hand.[5] Furthermore, a delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[6]

Because applicant did not provide a sufficient showing that the delay was unavoidable within the meaning of 35 USC § 151 and 37 CFR 1.137(a), the petition is **dismissed**. In any renewed petition under 37 CFR 1.137(a), applicant must submit a thorough explanation, including any documentary evidence, to support a showing of unavoidable delay.

---

[5] MPEP 711.03(c)(III)(C)(2)

[6] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

Alternative Venue:

Applicant is encourage to consider filing a petition pursuant to 37 CFR 1.137(b) on the basis of **unintentional** delay, instead of filing a renewed petition under 37 CFR 1.137(a). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The required reply to the Notice of Allowability as discussed above;

(2) The petition fee as set forth in 37 CFR 1.17(m) ($750.00 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 pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

A copy of the form for filing a "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" is enclosed for applicant's convenience.

On petition, applicant authorized the Office to charge the Deposit Account for a $750.00 petition fee. The current small entity fee for filing a petition to revive an unavoidably abandoned application is $250.00. Unfortunately, it appears that the Office mistakenly charged the Deposit Account for two petition fees, totaling $1,500.00. If applicant desires to file a renewed petition to revive an unavoidably abandoned application, applicant may request a refund in the amount of $1,250.00. However, if applicant chooses to file a "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," the $750.00 petition fee will be deducted from the amount the Office overcharged and applicant may request a refund of $500.00. Any request for a refund must be made in writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany applicant's request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related 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 examiner or the Technology Center.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Form PTO/SB/64 -"Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" and Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Huang Ming
P.O. Box 166-13
Taipei, Taiwan R.O.C.
AIR MAIL

COPY MAILED
NOV 25 2005
OFFICE OF PETITIONS

In re Application of :
Huang Ming :
Application No. 10/697,934 :
Filed: October 31, 2003 :
Attorney Docket No. BP3029-H47-P15 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 28, 2005, to revive the above-identified application.

On March 31, 2004, the Office mailed a Notice of Allowance and Fee(s) Due and a Notice of Allowability, which set a three-month statutory period for reply. The Notice of Allowance indicated that applicant must submit a $665.00 issue fee and a $300.00 publication fee by June 30, 2004, to avoid abandonment. The Notice of Allowability required applicant to submit Corrected Drawings (as "replacement drawings") including changes required by the Examiner's Amendment attached to the Notice. Applicant did not submit a response to either Notice within the specified period for reply. Accordingly, the application became abandoned on July 1, 2004. A Notice of Abandonment was mailed on August 2, 2004.

Applicant has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Applicant submitted the required reply in the form of corrected drawings and payment of the issue and publication fees. Additionally, applicant paid the petition fee and made the proper statement of unintentional delay.

Accordingly, the petition under 37 CFR 1.137(b) is **granted.**

As previously stated in the decision dismissing the petition under 37 CFR 1.137(a) dated September 27, 2005, applicant authorized the Office to charge the Deposit Account for a $750.00 petition fee. The small entity fee for filing a petition to revive an unavoidably abandoned application is $250.00. Unfortunately, the Office mistakenly charged the Deposit Account for two petition fees, totaling $1,500.00. Because applicant chose to file a "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," the $750.00 petition fee will be deducted from the amount the Office overcharged. **Applicant may request a refund of the balance of $500.00. Any request for a refund must be made in writing to the following address:**

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany applicant's request.

This matter is being referred to the Office of Patent Publication for issuance of a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice of Draftsperson's Patent Drawing Review

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

13 JUL 2006

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of STOLTZ et. al. Application No.: 10/697,943 PCT App. No.: PCT/SE02/00951 Int'l Filing Date: 17 May 2002 Priority Date: 17 May 2001 Attorney's Docket No.: STOLTZ11 For: SAMPLING DEVICE AND METHOD FOR OBTAINING SAMPLES OF INTERNAL SUBSTANCES	DECISION ON PETITIONS UNDER 37 CFR 1.182 & 1.137(b)

This is a decision in response to applicant's "Petition under 37 CFR 1.182", filed in the United States Patent and Trademark Office (USPTO) on 10 May 2006. The petition requests that the above referenced application be treated as an application filed under 35 U.S.C. 371 rather than 35 U.S.C. 111(a).

BACKGROUND

On 17 May 2002, applicant filed international application PCT/SE02/00951, which claimed a priority date 17 May 2001. The thirty month period for entry into the U.S. national stage ended on 17 November 2003.

On 31 October 2003, applicant filed a request for a United States application. The transmittal letter was accompanied by, *inter alia*, the filing fee of $770. The transmittal letter did not expressly request commencement of the national procedures under 35 U.S.C. 371(f). The USPTO treated the papers as a filing under 35 U.S.C. 111(a).

On 10 May 2006, applicant filed the present petition, requesting that the patent application filed on 31 October 2003 be treated as a national stage filing under 35 U.S.C. 371. In a separate submission of application papers on the same day, applicant also filed a petition to revive along with a request for national stage entry of PCT/SE02/00951. This submission was assigned U.S. serial number 10/595,777.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). *See* MPEP 1893.03(a).

In accordance with the notice at 1077 OG 13 (14 April 1987), if the applicant files a U. S. national application and clearly identifies in the accompanying oath or declaration the specification to which it is directed by referring to a particular international application by PCT Application Number and International Filing Date and that he is executing the declaration and seeking a U.S. Patent, as the inventor of the invention described in the identified international application, then the application will be accepted as submitted under 35 U.S.C. 371. *See* MPEP 1893.03(a), p.1800-192.

A review of the application file reveals that applicant did not use Form PTO-1390 as a transmittal letter. However, applicant did include a declaration which clearly identified PCT/SE02/00951 and the international filing date of 17 May 2002.

Since applicant included a declaration which referred to a particular international application by PCT Application Number (PCT/SE02/00951) and International Filing Date (17 May 2002) and that he is executing the declaration as the inventor of the invention described in the identified international application, then the application will be accepted as submitted under 35 U.S.C. 371. The application was improperly treated as an application under 35 U.S.C. 111(a) (37 CFR 1.495(g)). The transmittal letter authorized that applicant's deposit account be charged and therefore the account will be charged in the amount of $540 (small entity) for the basic national filing fee for a application filed under 35 U.S.C. 371.

Application papers submitted on 31 October 2003 are considered filed under 35 U.S.C. 371. Accordingly, the original papers deposited on 31 October 2003 were improperly accepted as a filing under 35 U.S.C. 111. The basic national fee of $540 will be charged to applicant's deposit account. Therefore, the international application was not abandoned as to the United States for failure to pay the basic national fee by midnight on 17 November 2003 (35 U.S.C. 371(d) and 37 CFR 1.495(h)).

Accordingly, applicant's request to identify the application as a 35 U.S.C. 371 filing is granted.

CONDITIONAL PETITION TO REVIVE

On 10 May 2006, applicant filed a conditional petition to revive under 37 CFR 1.137(b) international application no. PCT/SE02/00951, which was assigned U.S. application number 10/595,777. Applicant filed the conditional petition to revive along with the Petition under 27 CFR 1.182, referred to in the paragraphs above. In light of the discussion above and the decision granting applicant's request to treat the application filed on 31 October 2003 as a national stage application of PCT/SE02/00951, applicant' petition under 37 CFR 1.137(b) is DISMISSED as MOOT. As stated above, the papers submitted on 31 October 2003 were improperly treated as an application filed under 35 U.S.C. 111(a) rather than under 35 U.S.C. 371. Moreover, the end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States would be improper. *See* 35 U.S.C. 363 and 371.

CONCLUSION

Applicant's papers submitted on 31 October 2003 were improperly treated as an application filed under 35 U.S.C. 111(a). Applicant's petition to identify the application as a national stage filing under 35 U.S.C. 371 is **GRANTED**. The petition fee of $400 is refunded to applicant's deposit account.

Applicant's petition to revive international application no. PCT/SE02/00951 under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

U.S. Application 10/697,943 is the national stage application of PCT/SE02/00951. This

application has an international filing date of 17 May 2002 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 31 October 2003.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 08-04

MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON DC 20036-3307

In re Application of	:
Jones et al.	:
Application No. 10/697,945	: DECISION GRANTING
Filed: 31 October, 2003	: PETITION
Attorney Docket No. 84710/3157 KAW	:

This is a decision on the petition filed on 26 May, 2004,, which is treated as a petition under 37 CFR 1.53 requesting that the above identified application be accorded a filing date of 31 October, 2003, with four (4) sheets of drawings as a part of the original disclosure.

The petition is **GRANTED**.

The application was filed on 31 October, 2003. On 24 May, 2004, however, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that the filing date would be the date that the drawings were received in accordance with 35 U.S.C. § 113. The Notice also stated that the oath or declaration was missing. A two (2)-month period for reply was set.

In response, on 26 May, 2004, the present petition was filed, whereby petitioners assert that the application as filed included four (4) sheets of drawings, which were lost after receipt in the USPTO. In support, a copy of petitioners' postcard receipt were provided. The postcard bears an Office date stamp of 31 October, 2003, and the above identified application number. The postcard identifies the application by inventor's last name and attorney's mailing address, and itemizes, *inter alia*, Informal Drawings - (4) sheets. Petitioners have also supplied a copy of four (4) sheets of drawings.

A review of the record reveals that no sheets of drawings are located among the application papers deposited on 31 October, 2003. However, the evidence is convincing that the application papers deposited on 31 October, 2003, included four (4) sheets of drawings, which were subsequently misplaced in the Office.

Therefore, the application, including four (4) sheets of drawings, is entitled to a filing date of 31 October, 2003.

The Notice of Incomplete Nonprovisional Application mailed on 24 May, 2004, was sent in error, and is hereby vacated to the extent that it stated that the application was deposited without drawings.

In view of the above, the petition is granted. The petition fee of $130.00 paid is unnecessary and will be credited to counsel's deposit account, No. 50-0687 as authorized on the application transmittal letter.

The application will be processed and examined with a filing date of 31 October, 2003, using the four (4) sheets of drawings supplied on 26 May, 2004. The other application papers filed on 26 May, 2004, will not be used for processing or examination, but will be retained in the application file.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of 31 October, 2003, using the application papers filed on that date and the four (4) sheets of drawings supplied with the present petition.

Telephone inquires should be directed to the undersigned at 703 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SYNOPSYS, INC. C/O HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
HALF MOON BAY CA 94019

COPY MAILED

MAR 21 2007

OFFICE OF PETITIONS

Applicant: Zechner
Appl. No.: 10/697,982
Filing Date: January 30, 2004
U.S. Patent No.: 7,142,297
Issue Date: October 31, 2003
Title: METHOD FOR SIMULATING THE MOVEMENT OF PARTICLES
Attorney Docket No.: SYNP 0439-1
Pub. No.: US 2005/0094141 A1
Pub. Date: May 5, 2005

This is in response to the "Request for Corrected Publication under 37 CFR 1.221(b)," which was received on October 18, 2006, for the above-identified application.

The request is DISMISSED.

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 October 18, 2006, was not timely filed under 37 CFR 1.221(b).

Since the application has already issued as U.S. Patent No. 7,142,297 on November 28, 2006, the request is deemed moot.

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

[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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER, LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

MAILED

MAY 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Dorothea Reilly, et al.	:	
Application No. 10/697,995	:	DECISION GRANTING PETITION
Filed: October 30, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1463920045000	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 21, 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 28, 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 1644 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

COPY MAILED

AUG 26 2009

OFFICE OF PETITIONS

In re Application of :
Reilly et al. :
Application No. 10/697,995 : ON APPLICATION FOR
Filed: October 30, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 146392005000 :
Title: METHODS AND :
COMPOSITIONS FOR INCREASING :
ANTIBODY PRODUCTION :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705," filed April 28, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is seven hundred and thirty (730) days, not three hundred and twenty-eight (328) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office 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).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Supervisor
Office of Petitions

cc: MORRISON & FOERSTER LLP
12531 High Bluff Drive, Suite 100
San Diego, CA 92130-2040

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

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Mail Date: 04/30/2010

Applicant	: Dorothea Reilly	: DECISION ON REQUEST FOR
Patent Number	: 7608429	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/697,995	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **681** 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

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Richard S. Sanders	: DECISION ON REQUEST FOR
Patent Number	: 7583995	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/697,999	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1356** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED

DEC 22 2005

OFFICE OF PETITIONS

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of
Asamura, et al.
Application No. 10/698,003
Filed: October 30, 2003
Docket No.: WAKA 20.720
(100957-00081

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 4, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 20, 2005 for failure to timely reply to the non-final Office action mailed April 19, 2005. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed October 24, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 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.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Therefore, no extension of time fee is due in connection with this petition. The extension of time

fee submitted herewith is thus unnecessary. Petitioner may request a refund of the $1,020.00 extension of time fee submitted herewith by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

COPY MAILED

OCT 3 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Michaerl E. Landry et al	:	
Application No. 10/698,010	:	DECISION GRANTING PETITION
Filed: October 30, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5259-10700US02	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 29, 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 October 24, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3733 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KLARQUIST SPARKMAN
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

COPY MAILED

FEB 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Andrew J. Cleveland	:	DECISION ON PETITION
Application No. 10/698,023	:	TO MAKE SPECIAL UNDER
Filed: October 31, 2003	:	37 CFR 1.102(c)(1)
Attorney Docket No. 40081	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 25, 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 petition includes a copy of a driver's license and a statement by Andrew J. Cleveland attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2836 for action on the merits commensurate with this decision.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICES OF DONALD COX
P.O. BOX 505
PRINCETON, NJ 08542-0505

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,118,477	:	
Issue Date: October 10, 2006	:	
Application No. 10/698,032	:	ON PETITION
Filed: October 30, 2003	:	
Attorney Docket No. 1630-1-001C2	:	

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 application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions