



HUTCHISON & MASON
PO BOX 31686
RALEIGH, NC 27612

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MAR 09 2005

In re Application of : **OFFICE OF PETITIONS**
Ich-Kien Lao et al :
Application No. 10/703,258 : DECISION ON PETITION
Filed: November 7, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. INTG.03-01 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 27, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional Application No. 60/319,676, filed November 8, 2002, as 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 instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed application 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 application. 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 amendment¹ deleting the incorporation by reference statement, 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

¹ Note 37 CFR 1.121

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

By fax: (703) 872-9306
ATTN: Office of Petitions

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



Frances Hicks

Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



HUTCHISON & MASON
PO BOX 31686
RALEIGH, NC 27612

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MAY 04 2005

In re Application of
Ich-Kien Lao et al
Application No. 10/703,258
Filed: November 7, 2003
Attorney Docket No. INTG.03-01

OFFICE OF PETITIONS

:
:
: **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 April 8, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to 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 2613 for appropriate action on the amendment submitted April 8, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/319,676.



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

ATTACHMENT Corrected Filing Receipt



L. Howard Chen, Esq.
Kirkpatrick & Lockhart Preston Gates Ellis
LLP
Suite 1700
55 Second Street
San Francisco, CA 94105

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MAR 19 2007
OFFICE OF PETITIONS

In re Application of

Patchen, et al.

Application No. 10/703,279

Filed: November 7, 2003

Attorney Docket No. N1194(CRU03-5)

:
:
:
: **DECISION ON PETITION**
:

This is a decision on the petition under 37 CFR §1.137(b), October 3, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of \$1,400.00 and publication fee of \$300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed April 25, 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 July 26, 2006. A Notice of Abandonment was mailed on August 30, 2006.

The issue fee of \$1400.00 and publication fee of \$300.00 were received on October 3, 2006.

Form PTOL-85B was received on October 3, 2006, and is made of record.

The application is being forwarded to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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 : Aram Bonni : DECISION ON REQUEST FOR
Patent Number : 7608067 : RECALCULATION of PATENT
Issue Date : 10/27/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/703,287 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/06/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **900** 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.



03-17-04

\$

Law Offices of
DENNIS W. BEECH

Landmark Building - Newland Center
19900 Beach Blvd., Suite C-2
Huntington Beach, CA 92648
BUS: (714) 378-0212
FAX: (714) 378-0262

Meridian Building
1007 West Avenue M-14, Suite C-10
Palmdale, California 93551
BUS: (805) 273-0503
FAX: (714) 378-0262

RESPOND TO: HUNTINGTON BEACH

March 15, 2004

Mail Stop Patent Application
Commissioner for Patents
Group Director of Group 2856
P.O. Box 1450
Alexandria, VA 22313-1450

EV203793137US

Dear Commissioner:

PETITION GRANTED

Enclosed is a petition to make special for:

Richard Crispino
Special Program Examiner
TC 1700

Serial Number: 10/703,303
Applicant: JEFFREY S. HAAS
Filing Date: 11/07/2003
Group Art Unit: 2856
Examiner: Unknown
For: SYSTEM AND METHOD FOR EXPLOSIVES DETECTION

JUL 27 2005

PETITION TO MAKE SPECIAL BASED ON AN INVENTION FOR COUNTERING TERRORISM
37 CFR 1.102 (d) and MPEP 708.02 XI

Applicant hereby petitions to make this application special because the invention will materially contribute to the detecting/identifying of explosives.

As a showing of this fact, accompanying this petition is:

A declaration by the applicant.

A fee of \$130.00 is required and is enclosed.

If you have any questions, please do not hesitate to contact me.

Sincerely,

DENNIS W. BEECH
Reg. No.: 35443

DWB/ab
Enclosures



DENNIS W. BEECH (LAW OFFICE OF DENNIS W. BEECH)
P.O. BOX 519
MURRIETA CA 92564-0519

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MAY 24 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
Jeffrey S. Haas
Application No. 10/703,303
Filed: November 7, 2003
Title of Invention: **SYSTEM AND METHOD
FOR EXPLOSIVES DETECTION**

This is a decision on the petition filed January 23, 2007, under 37 CFR 1.137(a) to revive the above identified application and, alternatively under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition to revive is **DISMISSED** as involving moot issues.

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

The application was held abandoned on August 4, 2006, for failure to file a timely response to the non-Final Office Action mailed May 3, 2006, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed on November 15, 2006.

Petitioner asserts that a response to the non-Final Office Action was timely filed on November 3, 2006 with a three month extension of time request and submits as proof, a copy of the response which bears a certificate of express mail date November 3, 2006 pursuant to 37 CFR 1.10.

A review of the file reveals that the response is of record however, the response was filed with an incorrect serial number.

While, the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, other identifiable information was found to be on the papers filed as the response and the response was matched with the proper file on December 28, 2006. In view thereof, the response was timely filed and the Notice of Abandonment mailed November 15, 2006 is hereby withdrawn.

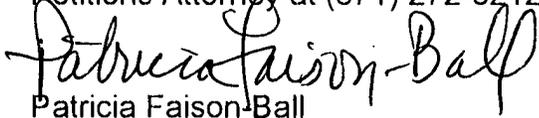
Please note that petitioner is continuing to cite the incorrect application number even on the instant petition which was not matched with the file until March 15, 2007. Please

communicating with the USPTO in the future, to minimize any potential for confusion that may cause a delay in an action regarding the above identified patent application.

In view of the above, the fee paid with the petition to revive under 37 CFR 1.137(a) is being refunded.

This matter is being referred to Technology Center 1743 for treatment of the response filed November 3, 2006.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in cursive script that reads "Patricia Faison-Ball". The signature is written in black ink and is positioned above the printed name.

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
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LARSON NEWMAN ABEL POLANSKY & WHITE LLP
5914 WEST COURTYARD DR
SUITE 200
AUSTIN TX 78730

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JUN 21 2006
OFFICE OF PETITIONS

In re Application of :
Gowda, et al. :
Application No. 10/703,304 :
Filed: November 7, 2003 : DECISION ON PETITION
Attorney Docket No. 1405-BIOTEX03 :

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed June 2, 2006.

The petition is GRANTED.

Petitioner states that the instant application is the subject of a PCT international application filed on November 5, 2004. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

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

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

- (1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 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 USC 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, indicating a projected publication date of September 28, 2006, accompanies this decision.

The matter is being forwarded to Group Art Unit 3735 for examination.

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



Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing (1 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

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

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DEC 16 2008

In re Application of :
Pomaranski, et al. :
Application No. 10/703,306 : DECISION ON PETITION
Filed: November 7, 2003 :
Attorney Docket No. 200209703-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned September 5, 2008 for failure to timely pay the issue and publication fees, as required by the Notice of Allowance and Fee(s) Due, mailed June 4, 2008. Notice of Abandonment was mailed October 1, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of payment of the issue fee and the publication fee, (2) the required petition fee; and (3) an adequate statement of unintentional delay. Petitioners are reminded that 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioners must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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

This application is being referred to Office of Data Management for processing into a patent.


Alesia M. Brown
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED
JUN 29 2010
OFFICE OF PETITIONS

Applicant: Arnaud Delenda : DECISION ON REQUEST FOR
Patent Number: Not Yet Available : RECALCULATION of PATENT
Issue Date: Not Yet Available : TERM ADJUSTMENT IN VIEW OF
Application No. 10/703,313 : WYETH
Filed: 11/07/2003 :

The Applicant's Request for Recalculation is **DISMISSED AS PREMATURE**. Applicant has filed the request based upon the USPTO determination that is provided to applicant in the notice of allowance.

The USPTO does not calculate and inform the applicant of the patent term adjustment based upon the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) or the overlapping provision in 35 USC § 154(b)(2)(A) in the notice of allowance because the USPTO must know the date the patent will issue to be able to calculate the patent term adjustment based upon these provisions. Accordingly, the USPTO does not determine the amount of "B" delay or the amount of overlap as required by Wyeth until the USPTO establishes a grant date.

Thus, reconsideration of the patent term adjustment indicated in the patent as it relates to the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and any overlap pursuant to 35 USC § 154(b)(2)(A) are not considered matters that could have been raised in an application for patent term adjustment under 37 CFR 1.705(b) (provides for reconsideration of the patent term adjustment indicated in the notice of allowance). Therefore, a request for reconsideration of the patent term adjustment calculation based on the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and the overlapping provision of 35 USC §

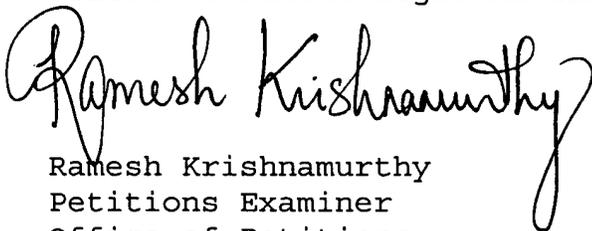
154(b)(2)(A) will be considered timely filed if filed within two months of the issue date of the patent.

Applicant may file a reply to this decision dismissing the Request for Recalculation. Applicant must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Applicant should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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



Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



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

INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

FEB 12 2009

OFFICE OF PETITIONS

In re Application of :
 Chau et al. :
 Application No. 10/703,316 : **DECISION ON PETITION**
 Filed: November 7, 2003 :
 Attorney Docket No. 042390.P14435D :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 10, 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 May 19, 2008, as required by the Notice of Allowance and Fee(s) Due mailed February 19, 2008. Accordingly, the date of abandonment of this application is May 20, 2008. A Notice of Abandonment was mailed June 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1,440.00 and publication fee of \$300.00; (2) the petition fee of \$1,540.00; and (3) a proper statement of unintentional delay.

Further, 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/Liana Walsh/
 Liana Walsh
 Petitions Examiner
 Office of Petitions

cc: Edwin H. Taylor
 12400 Wilshire Boulevard, 7th FL
 Los Angeles, CA 90025-1026



UNITED STATES PATENT AND TRADEMARK OFFICE

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FROM DIRECTORS OFFICE

DEC 07 2004

TECHNOLOGY CENTER 3600

Alan L. Miller
1500 Hill Drive
Los Angeles, CA 90041

In re application of
Alan Leslie Miller
Application No. 10/703,325
Filed: November 10, 2003
For: DRINK LOCKING UNIT

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

This is a decision on the petition submitted on November 10, 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 **DISMISSED**.

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 petition submitted lacks a signed declaration by applicant indicating that he is at least 65 years old.

Any request for re consideration must be filled within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The enveloped should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

SUMMARY: Petition to Make Special DISMISSED.



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

KJD/slb: 11/29/04



**FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041**

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NOV 29 2005

OFFICE OF PETITIONS

In re Application of :
Masonis et al. :
Application No. 10/703,337 : **DECISION GRANTING PETITION**
Filed: November 7, 2003 : **UNDER 37 CFR 1.137(b)**
Attorney Docket No. 23987-08516 :

This is a decision on the petition, filed June 13, 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 November 8, 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, will be mailed by the Publishing Division in due course.

This matter is being referred to Technology Center Art Unit 2161 for examination in due course.

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



Liana Chase
Petitions Examiner
Office of Petitions



MACPHERSON KWOK CHEN & HEID
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE CA 95110

COPY MAILED

SEP 06 2005

OFFICE OF PETITIONS

In re Patent No. 6,861,283 :
Issue Date: March 1, 2005 :
Application No. 10/703,343 :
Filed: November 6, 2003 :
Attorney Docket No. M-12678-ID US :

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.**

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



COZEN O'CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA PA 19103-3508

COPY MAILED

DEC 28 2007

In re Patent No. 7,262,050 :
Issued: August 28, 2007 : DECISION ON APPLICATION FOR
Application No. 10/703,344 : PTA and NOTICE OF INTENT
Filed: November 7, 2003 : TO ISSUE CERTIFICATE OF
Atty. Dkt. No.: CARP0001-106 : CORRECTION

OFFICE OF PETITIONS

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed October 26, 2007.

The request for reconsideration of patent term adjustment (PTA) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,262,050 on August 28, 2007. The instant request for reconsideration was timely filed October 26, 2007 in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 491 days. Patentees argue that the adjustment accorded the patent was improperly reduced 110 days in connection with the "COMMUNICATION REGARDING PTA" filed May 11, 2007.

Patentees argue that the filing of the "COMMUNICATION REGARDING PTA" was not a failure to engage in reasonable effort to conclude prosecution. Patentees argue that the submission advised the USPTO concerning terminal disclaimers filed during the course of prosecution. Patentees further argue that the Notice of Allowance mailed February 12, 2007 did not make mention of the terminal disclaimers filed November 29, 2006.

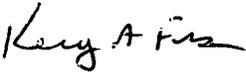
A review of the application history reveals that the adjustment was improperly reduced 110 days, as argued by patentees, in connection with the "COMMUNICATION REGARDING PTA" filed May 11, 2007. The Office has found that papers related to comments on the examiner's statement of reasons for allowance do not constitute failures to engage in reasonable efforts to conclude prosecution. See, MPEP 2732. See, also, 1247 Off. Gaz. Pat. Off. 111 (June 26, 2001). In this instance, as the examiner did not acknowledge whether the terminal disclaimers had been entered, the "COMMUNICATION REGARDING PTA" is deemed a comment on the examiner's reasons for allowance and will not constitute a failure to engage in reasonable efforts to conclude prosecution.

In view thereof, at the time of issuance, the patent was entitled to an adjustment of 601 days, as argued by patentees.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 601 days.

Receipt is hereby acknowledged of the required application fee of \$200.00.

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



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

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,262,050 B2
DATED : August 28, 2007
INVENTOR(S) : Adair, 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 491 days

Delete the phrase "by 491 days" and insert – by 601 days--

Day : Thursday
Date: 12/27/2007**PALM INTRANET**

Time: 14:32:45

PTA Calculations for Application: 10/703344

Application Filing Date:	11/07/2003	PTO Delay (PTO):	601
Issue Date of Patent:	08/28/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	110
Post-Issue Petitions:	0	Total PTA (days):	601
PTO Delay Adjustment:	110		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	12/27/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	110		
52.5	08/08/2007	PTA 36 MONTHS			
52	08/28/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
51	07/24/2007	EXPORT TO FINAL DATA CAPTURE			
50	07/23/2007	DISPATCH TO FDC			
49	05/11/2007	MISCELLANEOUS INCOMING LETTER		110	
47	05/16/2007	FINISHED INITIAL DATA CAPTURE			
46	05/15/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
45	05/11/2007	ISSUE FEE PAYMENT VERIFIED			
44	05/11/2007	ISSUE FEE PAYMENT RECEIVED			
43	02/21/2007	SEQUENCE FORWARDED TO PUBS ON TAPE			
42	02/21/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
40	02/16/2007	EXPORT TO INITIAL DATA CAPTURE			
39	02/20/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
38	02/12/2007	MAIL NOTICE OF ALLOWANCE			
37	02/08/2007	ISSUE REVISION COMPLETED			
36	02/08/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	02/08/2007	CASE DOCKETED TO EXAMINER IN GAU			
34	02/02/2007	NOTICE OF ALLOWABILITY			
33	01/24/2007	PARALEGAL TD ACCEPTED			
32	01/24/2007	PARALEGAL TD ACCEPTED			
31	01/24/2007	PARALEGAL TD ACCEPTED			

30	12/18/2006	DATE FORWARDED TO EXAMINER			
29	11/29/2006	RESPONSE AFTER NON-FINAL ACTION			
28	09/21/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
27	09/15/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
25	08/31/2006	MAIL NON-FINAL REJECTION	601		-1
24	08/29/2006	NON-FINAL REJECTION			
23	08/25/2006	CASE DOCKETED TO EXAMINER IN GAU			
22	11/07/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	07/13/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	06/07/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	06/07/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	11/07/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	11/07/2003	PRELIMINARY AMENDMENT			
16	05/24/2005	APPLICATION RETURN FROM OIPE			
15	05/24/2005	APPLICATION IS NOW COMPLETE			
14	05/24/2005	APPLICATION RETURN TO OIPE			
13	05/24/2005	APPLICATION RETURN FROM OIPE			
12	05/24/2005	APPLICATION IS NOW COMPLETE			
11	05/24/2005	APPLICATION RETURN TO OIPE			
10	05/24/2005	APPLICATION DISPATCHED FROM OIPE			
9	05/24/2005	APPLICATION IS NOW COMPLETE			
7	11/07/2003	REFERENCE CAPTURE ON IDS			
5	11/07/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
4	01/28/2004	CLEARED BY OIPE CSR			
3	01/28/2004	CASE CLASSIFIED BY OIPE			
2	12/21/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/07/2003	INITIAL EXAM TEAM NN			

Search Another: Application#

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

DOCKET NO. CARP0001-106

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Adair et al.

Confirmation No. 9631

U.S. Patent No.: 7,262,050

Issued: August 28, 2007

Application Serial No.: 10/703,344

Art Unit: 1643

Filing Date: November 7, 2003

Examiner: Parithosh K. Tungaturthi

For: Humanised Antibodies

**VIA EFS Web
Date Filed: October 26, 2007**

MAIL STOP PATENT EXT.

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

Dear Sir:

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

Pursuant to 37 C.F.R. § 1.705(d), Applicants hereby request reconsideration of the Patent Term Adjustment indicated on U.S. Patent 7,244,050 (“the ‘050 patent”), issued on August 28, 2007. As this request is being filed within two months of the date of issuance of the ‘050 patent, this request is timely. This request is accompanied by the fee set forth in 37 C.F.R. § 1.18(e). The facts supporting this request are set forth below.

STATEMENT OF THE FACTS

1. The correct patent term adjustment

On the Notice of Allowance dated as mailed February 12, 2007, a patent term adjustment of 601 days is indicated. In the Issue Notification dated as mailed February 21, 2007, and on the face of the ‘050 patent, however, a patent term adjustment of 491 days is indicated. There has been a reduction in patent term adjustment of 110 days. Applicants contest this reduction.

A copy of the Patent Term Adjustment sheet for this application as obtained from the United States Patent & Trademark Office's ("USPTO") website on October 24, 2007 is attached. The USPTO delay indicated thereon is 601 days. Applicants' delay indicated thereon is 110 days. For the reasons set forth below, Applicants contend that their delay should be indicated as only 0 days, not 110 days.

2. The relevant dates for which adjustment is sought

Adjustment is not sought for additional delay on the part of the USPTO, but for an incorrect charge of delay to the Applicants. Applicants were apparently penalized for filing a paper after receipt of the Notice of Allowance. Applicants filed a "Communication Regarding Patent Term Adjustment" ("Communication"). In this Communication, Applicants were advising/reminding the USPTO regarding the terminal disclaimers that had been filed in the application that issued as the '050 patent. This filing, thus, was not unlike a request to correct an omission in a Notice of Allowance. Per MPEP § 2732, such a filing is not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. Accordingly, the total reduction in term adjustment should be 0 days. Total Patent Term Adjustment, thus, should be 601 days, considering any terminal disclaimers as indicated below.

3. Terminal disclaimer

As indicated in the Communication, the '050 patent is subject to terminal disclaimers. Specifically, the '050 patent disclaimed term over U.S. Patent No. 5,859,205, issued January 12, 1999; over Application Serial No. 10/703,963, filed November 7, 2003, claiming priority to PCT/GB90/02017 filed December 20, 1990 (now U.S. Patent No. 7,244,832, "the '832 patent"); and Application Serial No. 10/704,352, filed November 7, 2003, claiming priority to PCT/GB90/02017 filed December 20, 1990 (now U.S. Patent No. 7,241,877, "the '877 patent").

The latter two patents are themselves subject to terminal disclaimers and will also be subject to requests for reconsideration of term adjustment. If the requests are granted, the term adjustment for the '877 patent will be 567 days and the term adjustment for the '832 patent will be 601 days.

4. Representations regarding reasonable efforts

Applicants challenge, whether the filing of the Communication was a failure to engage in reasonable efforts to conclude processing or examination of an application. The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) that accompanied the Notice of Allowance mailed February 12, 2007 did not mention any terminal disclaimers. Applicants believed it was incumbent upon them to advise/remind the USPTO of the same. *See* MPEP § 2733. Even if Applicants were mistaken in their belief, they should not be penalized for filing the informational Communication. They could not file the Communication until after the Notice of Allowance was received.

For the foregoing reasons, Applicants respectfully request reconsideration of Patent Term Adjustment as set forth above.

Respectfully submitted,

Date: October 26, 2007

/Doreen Yatko Trujillo/

Doreen Yatko Trujillo
Registration No. 35,719

COZEN O CONNOR P.C.
1900 Market Street, 7th Floor
Philadelphia, PA 19103-3508
(215) 665-5593 - Telephone
(215) 701-2005 - Facsimile



RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

COPY MAILED

AUG 19 2004

OFFICE OF PETITIONS

In re Application of	:	
Mark Dell'eva, Michael Farmer, John Prainito,	:	DECISION GRANTING STATUS
Michael Montag, Daniel Croft, Joseph Spryshak	:	UNDER 37 CFR 1.47(a)
and Kevin Jump	:	
Application No. 10/703,345	:	
Filed: November 7, 2003	:	
Attorney Docket Number: 65858-0023	:	
Title of Invention: Decision Enhancement System	:	
For A Vehicle Safety Restraint Application	:	

This is in response to the petition under 37 CFR 1.47(a), filed June 25, 2004.

The petition is GRANTED.

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

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

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

Pursuant to petitioner's request deposit account 18-0013 is being charged the \$130.00 petition fee.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Joseph Spryshak
12875 Twyla Lane
Hartland, Michigan 48353

In re Application of
Mark Dell'eva, Michael Farmer, John Prainito,
Michael Montag, Daniel Croft, Joseph Spryshak
and Kevin Jump
Application No. 10/703,345
Filed: November 7, 2003
Attorney Docket Number: 65858-0023
Title of Invention: Decision Enhancement System
For A Vehicle Safety Restraint Application

LETTER

COPY MAILED

AUG 19 2004

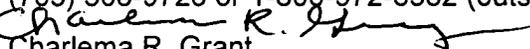
OFFICE OF PETITIONS

Dear Mr. Spryshak:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251 until September 24, 2004, thereafter (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).


Charlema R. Grant
Petitions Attorney
Office of Petitions

MICHAEL B. STEWART
RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610



UNITED STATES 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

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MAR 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael Lasalle et al	:	
Application No. 10/703,349	:	ON PETITION
Filed: November 7, 2003	:	
Attorney Docket No. D0932-00388	:	

This is a decision on the petition filed November 6, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed August 2, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 3, 2006.

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

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

This matter is being referred to the Publishing Division for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kelly K. Kordzik
Winstead Sechrest & Minick P.C.
P.O. Box 50784
1201 Main Street
Dallas, TX 75250-0784

MAILED
NOV 08 2004
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
Andrew R. Heller : **TO MAKE SPECIAL**
Application No. 10/703,350 : **(INFRINGEMENT)**
Filed: November 7, 2003 :
For: **METHOD FOR ELECTRONIC MEDIA**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed April 8, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

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

The petition filed April 8, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

In compliance with element 2(C) above, an Information Disclosure Statement was filed on April 8, 2004.

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

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



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

RAR/rwg: 10/14/04



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

Paul E. Schaafsma
NovusIP, LLC
521 WEST SUPERIOR STREET
SUITE 221
CHICAGO IL 60610-3135

COPY MAILED

NOV 08 2007

OFFICE OF PETITIONS

In re Application of :
Jeffery Bransky et al :
Application No. 10/703,357 : DECISION ON PETITION
Filed: November 7, 2003 :
Attorney Docket No. 036271-0101 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 10, 2006, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time was timely obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on May 11, 2006. A Notice of Abandonment was mailed on August 14, 2006 and again on January 18, 2007 with an explanation as to why the application was abandoned.

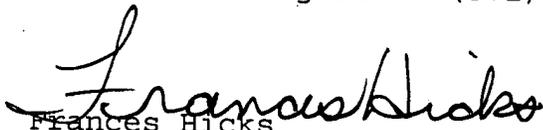
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, \$395 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of \$750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of January 10, 2006 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 \$225 extension of time fee submitted on August 11, 2006 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O.

Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

This application is being referred to Technology Center AU 1744 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received August 11, 2006.

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

Jack Silver
404 E. Merrimac St.
Upland, CA 91784-2038

MAILED

JUN 22 2005

Director's Office
Group 3700

In re application of	:	DECISION ON PETITION
Jack Silver	:	TO MAKE SPECIAL
	:	UNDER 37 CFR. 1.102(c)
Serial Number: 10/703364	:	
Filed: November 10, 2003	:	

For: DEVICE FOR INCREASING THE POWER OF INTERNAL COMBUSTION

This is a decision on the petition filed on November 10, 2003, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only 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: Decision on Petition GRANTED.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 6/21/05



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

MAILED

Jack Silver
404 E. Merrimac St.
Upland, CA 91784-2038

JUN 22 2005

Director's Office
Group 3700

In re application of
Jack Silver

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **UNDER 37 CFR. 1.102(c)**

Serial Number: 10/703364
Filed: November 10, 2003

:
:
:

For: DEVICE FOR INCREASING THE POWER OF INTERNAL COMBUSTION

This is a decision on the petition filed on November 10, 2003, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only 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: Decision on Petition GRANTED.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 6/21/05

4 pages Application Papers
13 pages Specifications
2 pages Drawings
1 Request for priority examination
check in amount of \$375.

16834 U.S. PTO
10/703364



10/703,364

10/15/2002

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/21/2006

TO SPE OF : ART UNIT 3700 (3732)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,979,195

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 – 2900 South Tower ste.9A43A
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.

***Ok to make changes to claim dependency as requested in C of C?**

Ernest C. White, LIE (703) 308-9390x122

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:

*The claims were properly renumbered by the examiner
The portions of the Amendment (6-13-05) referred to
in the CofC do not match the amendment as
received by the PTO*

Cynthia McDermott

SPE

3732

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/11/09

TO SPE OF : ART UNIT 3732 (3700)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/703,366 Patent No.: 6,979,195

Attn: Cary O'Conner

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest B. 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:

Respecting the alleged error(s) in the your request, the claims were properly renumbered by the examiner, the portions of the amendment dated (6/13/2005) referred to in the C of C does not match the amendment as received by the PTO.



Cris L. Rodriguez

3732

SPE

Art Unit



UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 3/28/2009
Patent No. : 6,979,195 B2
Serial No. : 10/703,366
Inventor(s) : Skarky
Issue Date : December 27, 2005
Title : **DENTAL DEVICE FOR FORMING A DENTAL APPLIANCE
WHICH POSITIONS THE MANDIBLE AND THE MAXILLA
IN CENTRIC RELATION AND METHODS FOR USING SAME**
Doc./File No. : 7202.010

Re: Certificate of Correction (Reconsideration)

Consideration has been given your request for a certificate of correction (reconsideration), for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged errors in your request, the claims were properly renumbered by the examiner, the portion of the amendment dated (6/13/2005) referred to the C of C does not match the amendment as received by the PTO. No correction is in order here.

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

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, LIE (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

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

ECW



RAYMOND YAT CHAN
SUITE 128
108 NORTH YNEZ AVENUE
MONTEREY PARK, CA 91754

COPY MAILED

JUN 08 2005

OFFICE OF PETITIONS

In re Application of :
Jiagiang Ruan :
Application No. 10/703,370 : ON PETITION
Filed: November 7, 2003 :
Attorney Docket No. USP2295C-DRSZ :

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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 6, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 7, 2005.

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

This matter is being referred to Publishing Division.

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

JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 TOWER BLVD
SUITE 1200
DURHAM, NC 27707

COPY MAILED

SEP 18 2006

OFFICE OF PETITIONS

In re Application of :
Robert J. Delaney, et. al. :
Application No. 10/703,385 : **ON PETITION**
Filed: November 7, 2003 :
Attorney Docket No. 1322/152 :

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

The application became abandoned for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due mailed December 8, 2005. A Notice of Abandonment was mailed on April 21, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of \$1,400 for payment of the issue fee; (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 Publishing Division 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



Medhi Fakhrai, M.D.
3457 Alana Drive
Sherman Oaks, CA 91403

COPY MAILED

JAN 09 2007

OFFICE OF PETITIONS

In re Application of Fakhrai :
Application No. 10/703,401 : Decision on Petition
Filing Date: October 4, 2003 :
For: Method and Apparatus for :
Producing Energy Using Air :
Pressure Differential :

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 **DISMISSED**.

A final Office action was mailed January 13, 2006.

A reply was filed March 13, 2006.

An Advisory Action was mailed April 6, 2006.

The application became abandoned as of April 7, 2006.

A Request for Continued Examination (RCE) was filed August 7, 2006. However, the RCE was filed beyond the statutory time period for reply and without the fee required for a RCE.

Petitioner requests revival of the application pursuant to 37 CFR 1.137(b).

Unfortunately, the application cannot be revived at this time because the Office has not received the necessary fee of \$395 for the RCE.

A request for reconsideration and the \$395 fee must be submitted in order to revive the application.

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)."

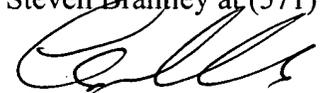
Further correspondence with respect to this matter should be addressed as follows:

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



Medhi Fakhrai, M.D.
3457 Alana Drive
Sherman Oaks, CA 91403

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of Fakhrai	:	
Application No. 10/703,401	:	Decision on Petition
Filing Date: October 4, 2003	:	
For: Method and Apparatus for	:	
Producing Energy Using Air	:	
Pressure Differential	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 2006, to revive the above-identified application.

The petition is **granted**.

A final Office action was mailed January 13, 2006. A reply was filed March 13, 2006. The reply failed to prima facie place the application in condition for allowance. As a result, the application became abandoned as of April 7, 2006.

A Request for Continued Examination (RCE) was filed August 7, 2006. However, the RCE was filed beyond the statutory time period for reply and without the fee required for a RCE.

Petitioner requests revival of the application pursuant to 37 CFR 1.137(b). Petitioner has submitted the required petition fee of \$750. Petitioner has submitted a reply to the final Office action in the form of a RCE and amendment. 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 2834 will be informed of the instant decision and the RCE and amendment filed August 7, 2006, will be considered 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

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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DEC 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Lipsky et al.	:	
Patent Number: 7,532,753	:	
Issue Date: 05/12/2009	:	
Application No. 10/703407	:	
Filing or 371(c) Date: 11/07/2003	:	ON APPLICATION FOR
Atty. Dkt. No. 32052.9155.US05	:	PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B), filed July 13, 2009. Patentees request correction of the patent term adjustment from 615 days to 1215 days. Patentees request this correction solely on the basis that the Office took in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(d).

The Application for Patent Term Adjustment (“PTA”) under 37 CFR 1.705(d), is **DISMISSED**.

On May 12, 2009, the above-identified application matured into U.S. Patent No. 7,532,753, with a patent term adjustment of 615 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees provide that the PTO properly accounted for the delay under 35 U.S.C. § 154(b)(1)(A), referred to as the “A delay,” which is 832 days, and that the PTO properly accounted for the reduction in patent term adjustment under 35 U.S.C. 154(b)(2)(C), which is 217 days. However, Patentees assert that the PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(B), referred to as the “B delay,” which Patentee’s aver is 763 days, and that the PTO failed to properly account for the overlap under 35 U.S.C. § 154(b)(2)(A) in the A delay and B delay, which is 163 days. Patentees assert that the correct patent term adjustment is the sum of the A delay and the B delay minus the overlap and minus the reduction, or 1215 days (832 days + 763 days – 163 days – 217 days).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to

conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the RCE on December 9, 2008, the application was pending three years and 762 days after its filing date, from November 8, 2006 to December 8, 2008. Excluded from the period of delay under 35 U.S.C. § 154(b)(1)(B) is any time consumed by continued examination of the application under 35 U.S.C. 132(b). Continued examination began with the filing of the request for continued examination on December 9, 2008. As such, the period of delay does not include December 9, 2008, but ended on December 8, 2008.

The Office asserts that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 832 days is correct. At issue is whether patentees should accrue 762 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 832 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 762 days of delay in issuing the patent overlaps with the 832 of examination delay under 37 CFR 1.702(a). 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. S14,718¹

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-

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, November 7, 2003, and ending December 8, 2008, the day before the date that the RCE was filed on December 9, 2008. Prior to the issuance of the patent, 832 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 762 days of Office delay in issuing the patent overlap with the 832 days of Office examination delay. During that time, the issuance of the patent was delayed by 832 days, not 762 days and 832 days. The Office took 14 months and 832 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 832 days of Office delay and the time allowed within the time frames for processing and examination, the application issued three years and 762 days after its filing date. The Office did not delay 762 days and also delay an additional 832 days. Accordingly, 832 days of patent term adjustment was properly entered because the period of delay of 762 days attributable to the delay in the issuance of the patent overlaps with the period of adjustment of 832 days attributable to grounds specified in § 1.702(a). Entry of both periods is not warranted.

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

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

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



THE LAW OFFICE OF JILL L. WOODBURN, LLC
128 SHORE DR.
PORTAGE IN 46368

MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Patent No. 7,287,318 :
Issued: October 30, 2007 : DECISION GRANTING PETITION
Application No. 10/703,408 : UNDER 37 CFR 1.78(a)(3) AND
Filed: November 7, 2003 : REQUEST FOR CERTIFICATE
Attorney Docket No. WP 19152 US1 : OF CORRECTION

This is a decision on the petition, filed July 30, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/684,257, filed October 6, 2000, by way of a certificate of correction.

The petition is **GRANTED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed November 7, 2003. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

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

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751.

This matter is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Justin L. Sage
Roche Diagnostics Operations, Inc.
9115 Hague Road
Indianapolis IN 46250-0457

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

Table with 6 columns: APPLICATION NUMBER, FILING or 371(c) DATE, GRP ART UNIT, FIL FEE REC'D, ATTY. DOCKET NO, TOT CLAIMS, IND CLAIMS. Values: 10/703,408, 11/07/2003, 3729, 1634, WP 19152 US1, 29, 5

CONFIRMATION NO. 9220

CORRECTED FILING RECEIPT

32842
The Law Office of Jill L. Woodburn, LLC
128 Shore Dr.
Portage, IN 46368



Date Mailed: 10/26/2009

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

Applicant(s)

Ragbir S. Bhullar, Indianapolis, IN;
Christopher D. Wilsey, Carmel, IN;
Brian S. Hill, Avon, IN;

Power of Attorney: The patent practitioners associated with Customer Number 32842

Domestic Priority data as claimed by applicant

This application is a CON of 09/684,257 10/06/2000 PAT 6,645,359

Foreign Applications

If Required, Foreign Filing License Granted: 02/10/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US 10/703,408

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

BIOSENSOR

Preliminary Class

029

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).



HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

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APR 13 2009

OFFICE OF PETITIONS

In re Application of Witkowski et al. :
Application No. 10/703,412 :
Filing Date: November 6, 2003 :
Attorney Docket No. 50277-2138 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181 filed January 12, 2009, requesting the Office withdraw the holding of abandonment.

The petition is **granted**.

The Office mailed a Notice of Allowance on August 21, 2008. The Notice set a statutory period for reply of three (3) months. The Notice required the submission of the issue fee and publication fee.

The Office did not receive a reply to the Notice of Allowance. As a result, a Notice of Abandonment was mailed December 15, 2008.

Petitioner asserts the Notice of Allowance was never received and requests the Office withdraw the holding of abandonment.

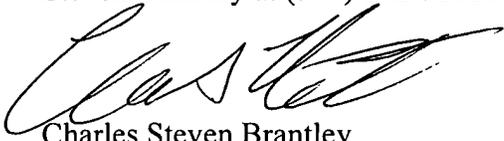
The showing provided by petitioner is sufficient to demonstrate non-receipt of the Notice of Allowance. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Notice of Allowability was mailed with the Notice of Allowance on August 21, 2008. Since petitioner did not receive the Notice of Allowance, it is presumed petitioner did not receive the Notice of Allowability. Therefore, both the Notice of Allowance and Notice of Allowability mailed on August 21, 2008, are vacated.

A new Notice of Allowance and Fee(s) Due will be mailed and the period for reply will be re-started.

Technology Center Art Unit 2166 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new Notice of Allowance and Notice of Allowability, including attachments. The time period for responding to the new Notices will be set to run from the mailing date of the new Notices.

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

A handwritten signature in black ink, appearing to read 'C. Brantley', written in a cursive style.

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
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 Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/703,414	11/07/2003	3713	1424	110184.420	18	30	7

CONFIRMATION NO. 9216

CORRECTED FILING RECEIPT



OC000000012771635

00500
 SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
 701 FIFTH AVE
 SUITE 6300
 SEATTLE, WA 98104-7092

Date Mailed: 05/25/2004

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

Applicant(s)

Richard Soltys, Newcastle, WA;
 Richard Huizinga, Newcastle, WA;
 Robert B. Mouchou, Reno, NV;

Assignment For Published Patent Application

MindPlay LLC, Bellevue, WA;

Domestic Priority data as claimed by applicant**Foreign Applications**

If Required, Foreign Filing License Granted: 02/09/2004

Projected Publication Date: 05/12/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method, apparatus and article for evaluating card games, such as blackjack

Preliminary Class

463

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

GRANTED

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

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

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

NOT GRANTED

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



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VENABLE LLP
PO BOX 34385
WASHINGTON DC 20043-9998

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JAN 25 2008

OFFICE OF PETITIONS

In re Application of :
Knauerhase, et al. :
Application No. 10/703,429 : DECISION ON PETITION
Filed: November 10, 2003 :
Attorney Docket No. 42339-191613 :

This is in response to the "Petition under Rule 37 C.F.R. 1.183 Requesting Waiver of the Signature of the Unavailable Inventor", filed December 28, 2007.

The petition under 37 CFR 1.183 is **DISMISSED**.

Petitioner 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 1.183," and should only address the deficiencies noted below, except that the reply may include a supplemental reissue oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

Petitioner has filed the instant petition, together with a declaration under 37 CFR 1.131, lacking the signature of inventor

Nguyen. Petitioner explains that Nguyen is no longer employed by the assignee, and could not be located.

In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

Here, petitioner has failed to provide the Office with a showing of the steps taken to locate Nguyen, or explain how petitioner knows that Nguyen is no longer at his last known address. Petitioner has provided no documentary evidence, such as a copy of an internet search, or copy of an envelope addressed to Nguyen that was returned as undeliverable, to support such a finding¹.

The petition fee of \$400 has been charged to Deposit Account No. 22-0261, as authorized.

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

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

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

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



Cliff Congo
Petitions Attorney
Office of Petitions

¹ Such documentary evidence should be made part of the affidavit or declaration. See MPEP 409.03(d).



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MAY 27 2008

OFFICE OF PETITIONS

VENABLE LLP
PO BOX 34385
WASHINGTON DC 20043-9998

In re Application of :
Knauerhase, et al. :
Application No. 10/703,429 : DECISION ON PETITION
Filed: November 10, 2003 :
Attorney Docket No. 42339-191613 :

This is in response to the "Request for Reconsideration of Petition under Rule 37 C.F.R. §1.183", filed March 24, 2008.

The petition under 37 CFR 1.183 is **DISMISSED** as moot.

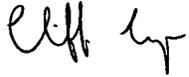
On December 28, 2007, applicants filed a petition under 37 CFR 1.183, to have a declaration under 37 CFR 1.131 entered, despite the fact that it lacked the signature of inventor Nguyen. However, the petition was dismissed in a decision mailed on January 25, 2008. The decision explained that the petition did no include a showing of the steps taken to locate Nguyen.

With the instant renewed petition, petitioner has included a 37 CFR 1.131 declaration executed by inventor Nguyen. As such, no further consideration of the petition under 37 CFR 1.183 is necessary, and as such is dismissed as moot.

As no petition fee is necessary for a request for reconsideration, the \$400 petition fee has been refunded to Deposit Account No. 22-0261.

The matter is being forwarded to Group Art Unit 2619 for consideration of the Amendment filed December 28, 2007, and the Rule 131 declarations filed December 28, 2007 and March 24, 2008.

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

A handwritten signature in black ink, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions



MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

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JAN 23 2007

OFFICE OF PETITIONS

In re Application of
Eric Radigon et al:
Application No. 10/703,501
Filed: November 10, 2003
Attorney Docket No: ATOCM-151 C2

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed December 21, 2006, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on August 10, 2006, for failure to file a timely response to the Final Office Action mailed May 9, 2006, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed December 7, 2006. Petitioner asserts that the Final Office Action was never received.

The file record discloses that the Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment. Petitioner has provided a copy of the docket report, wherein receipt of the Office Action mailed May 9, 2006 would have been filed, had it been received. To show that the Notice mailed May 9, 2006 was not received, petitioner also explains that after searching the file jacket it was concluded that no correspondence was received for this matter from the USPTO,

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the Final Office Action mailed May 9, 2006, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 1714 for a re-mailing of the Final Office Action and for a restarting of the period for response.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Balf
Senior Petitions Attorney
Office of Petitions



LAWRENCE Y.D. HO & ASSOCIATES PTE LTD
30 BIDEFORD ROAD, #07-01, THONGSIA BUILDING
SINGAPORE 22992-2 SG SINGAPORE

COPY MAILED

JUN 13 2005

In re Application of : **OFFICE OF PETITIONS**
Nam Min Kim :
Application No. 10/703,590 : **ON PETITION**
Filed: November 10, 2003 :
Attorney Docket No. 1317.P005US/TDD/CCH :

This is a decision on the petition under 37 CFR 1.137(b), filed March 23, 2005, to revive the above-identified application.

The petition is **dismissed**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed September 9, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight December 9, 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 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 (1) above.

The Office hereby acknowledges receipt of \$1,500 for the petition to revive fee, \$300 for the publication fee, \$9 for three (3) advance soft copies, and \$1,330 for the issue. However, effective December 8, 2004, the large entity issue was increased from \$1,330 to \$1,400. Therefore, this application cannot be revived until the fee deficiency of \$70 has been submitted.

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.

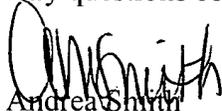
Further correspondence with respect to this matter should be addressed as follows:

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

Any questions concerning this decision may 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



LAWRENCE Y.D. HO & ASSOCIATES PTE LTD
30 BIDEFORD ROAD, #07-01, THONGSIA BUILDING
SINGAPORE 22992-2 SG SINGAPORE

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JUL 27 2005

OFFICE OF PETITIONS

In re Application of :
Nam Min Kim :
Application No. 10/703,590 : ON PETITION
Filed: November 10, 2003 :
Attorney Docket No. 1317.P005US/TDD/CCH :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 7, 2005, to revive the above-identified application.

The Office hereby acknowledges receipt of \$70 to complete the issue fee deficiency.

Since petitioner has now met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

This application is being referred to the Office of Publications for further processing 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
Office of the Deputy Commissioner
for Patent Examination Policy



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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Walter M. Benjamin
2422 West Oklahoma St.
P.O. Box 6099
Tulsa OK 74127

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DEC 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Greg Carter Jr. et al.	:	
Application No. 10/703,610	:	DECISION ON PETITION
Filed: November 7, 2003	:	UNDER 37 C.F.R. §1.137(b)
Title: NON-POLLUTING HIGH	:	
TEMPERATURE COMBUSTION SYSTEM	:	

This is a decision on the petition filed November 10, 2005, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed May 24, 2005, which set a shortened statutory period for reply of three (3) months. On August 29, 2005, Petitioner submitted a one-month extension of time². No response was submitted, and no additional extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 25, 2005.

Along with the present petition, Petitioner has submitted the petition fee and an after-final amendment.

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.

² The petition for a one-month extension of time contains a certificate of mailing dated August 24, 2005.

The present petition is not grantable because requirement (1) above has not been satisfied. Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed³. In order for the application to be revived, petitioner must submit a reply which satisfies 37 C.F.R. §1.137(b)(1) (i.e., a Notice of Appeal (and fee required by law); an amendment that *prima facie* places the application in condition for allowance; a continuing application under 37 C.F.R. §1.53(b); a request for continuing examination under 37 C.F.R. §1.114, if applicable; or a 37 C.F.R. §1.129(a) submission, if applicable). An amendment was received along with the present petition. This amendment was considered by the Examiner, but it failed to place the application in condition for allowance for the reason(s) set forth in the attached Advisory Action.

As such, the petition must be **DISMISSED**.

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and may be submitted by mail⁴, hand-delivery⁵, or facsimile⁶.

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 Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Advisory Action

³See M.P.E.P. 711.03(c).

⁴ Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

⁵ Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

⁶ 571-273-8300 - please note this is a central facsimile number.



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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. None

Walter M. Benjamin
2422 West Oklahoma St.
P.O. Box 6099
Tulsa OK 74127

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APR 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Greg Carter Jr. et al.	:	
Application No. 10/703,610	:	DECISION ON RENEWED PETITION
Filed: November 7, 2003	:	UNDER 37 C.F.R. §1.137(b)
Title: NON-POLLUTING HIGH	:	
TEMPERATURE COMBUSTION SYSTEM	:	

This is a decision on the renewed petition filed March 20, 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 within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed May 24, 2005, which set a shortened statutory period for reply of three (3) months. On August 29, 2005, Petitioner submitted a one-month extension of time². No response was submitted, and no additional extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 25, 2005.

The original petition was submitted on November 10, 2005, and was dismissed via the mailing of a decision on December 14, 2005.

Along with this renewed petition, Petitioner has submitted another after-final amendment.

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.

² The petition for a one-month extension of time contains a certificate of mailing dated August 24, 2005.

It is noted that the petition fee and the proper statement of unintentional delay were provided with the original petition. A terminal disclaimer is not required.

The amendment which was provided with this renewed petition has been approved by the Examiner.

As such, the petition is **GRANTED**.

The Technology Center will be notified of this decision.

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



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



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TECHNOLOGY CENTER 2800

ROBERT A. McLAUHLAN
P.O. Box 26780
Austin, TX 78755

In re Application of:
DUBOIS *et al.*
Serial No.: 10/703,655
Filed: November 07, 2003
Attorney Docket No.: 1017.P069US

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed on August 10, 2005, and resubmitted on August 12, 2005, to restart the period for response due to late receipt of the Office action mailed on December 16, 2004. No petition fee is required.

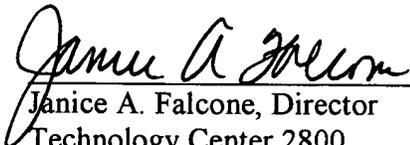
The petition is **GRANTED**.

Petitioner asserts that the Office action mailed December 16, 2004, was not received at the correspondence address until August 8, 2005, when a copy of the Office action was downloaded from USPTO PAIR. Petitioner further asserts that the Office action mailed December 16, 2004, was sent to an incorrect correspondence address.

A review of the application file reveals that the Office action mailed December 16, 2004, was, in fact, mailed to an incorrect address. As such, it can not be presumed that the mailed Office action was received at the correspondence address of record.

Accordingly, the petition is granted, and the period for response is hereby reset to run three (3) months from August 8, 2005, the date of receipt of the Office action, and expired on November 8, 2005. The response filed with the petition is considered timely and will be entered into the file record and sent to the examiner for consideration.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.



Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Component



BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

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MAR 28 2008

OFFICE OF PETITIONS

In re Application of :
Marc Dubois et al :
Application No. 10/703,655 :
Filed: November 7, 2003 :
Attorney Docket No. TA-00639 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 27, 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 June 28, 2007.

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

This matter is being referred to Technology Center AU 2886 for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/3/09

TO SPE OF : ART UNIT 2167

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/703688 Patent No.: 7007014

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

FOR IFW FILES: Please check Drawings/claims -

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

E. Youwb
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: Drawing are OK to file

C. Jones
SPE

2164
Art Unit



BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
RACINE, WI 53403-2236

COPY MAILED

AUG 16 2004

OFFICE OF PETITIONS

In re Application of :
Ian Cayrefourcq, et al. :
Application No. 10/703,694 : DECISION ON PETITION
Filed: November 6, 2003 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 9905/17 :

This is a decision on the petition under 37 CFR 1.55(c), filed March 15, 2004, requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of the following foreign application: Application No. FR0231035, filed November 7, 2002.

The petition is **DISMISSED**.

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 must be supplied on an application data sheet in accordance with 37 CFR 1.76(b)(6) or on the oath or declaration in accordance with 37 CFR 1.63(c)(2);
- (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)(i) 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 petition is not in compliance with item (2) above. In this regard, the claim for foreign priority must be either set forth in an oath or declaration in accordance with 37 CFR 1.63(c)(2) or in an application data sheet in accordance with 37 CFR 1.76(b)(6). Petitioner is advised that it is improper to include the claim for foreign priority in the first line of the specification. Accordingly, before the petition can be granted, compliance with item (2) above must be satisfied. The above item should be submitted under a cover letter entitled "Renewed Petition under 37 CFR 1.55(c) to Accept a Late Claim for Priority," and 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
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306¹
 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Retta Williams at (703) 306-5594.



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

¹ Effective approximately September 28, 2004, the facsimile number will be 571-273-0025, which is when the Office of Petitions expects to move to the new quarters in Alexandria, Virginia. However, this number is not to be used for submitting formal papers, but merely is to be used for receiving courtesy and informal papers and petitions to withdraw from issue only. Courtesy and informal papers will not be made a part of the file record.



UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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SEP 13 2007

OFFICE OF PETITIONS

In re Patent No. 7,176,108 :
Issue Date: February 13, 2007 :
Application No. 10/703,694 :
Filed: November 6, 2003 :
Attorney Docket No. 9905-17 :

ON PETITION

This is a decision on the correspondence filed March 23, 2007 (certificate of mailing date March 15, 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 petition is required because the Assignee Name and Residence Data field was blank on the PTOL-85B. Therefore, to add assignee information, a petition is necessary. Deposit account no. 23-1925 will be charged the required \$130.00 processing fee and the \$100.00 Certificate of Correction fee.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Please note that this decision addresses only the omitted assignee information listed in the Request for Certificate of Correction, filed March 23, 2007 (certificate of mailing date March 15, 2007). The other errors listed in the Request for Certificate of Correction, filed March 23, 2007 (certificate of mailing date March 15, 2007), will be addressed by Certificate of Correction Branch.

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

A handwritten signature in cursive script that reads "Shirene Willis Brantley".

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



DOCKET CLERK
P.O. DRAWER 800889
DALLAS TX 75380

COPY MAILED

FEB 02 2005

In re Application of
William Joseph Sember
Application No. 10/703,700
Filed: November 6, 2003
Attorney Docket No. 2003.10.019.WS0

: **OFFICE OF PETITIONS**
:
: **DECISION ON PETITION**
:

This is a decision on the "Petition Under 37 CFR 1.10 To Accord Filing Date of November 7, 2003", filed January 18, 2004, requesting that the above-identified application be accorded a filing date of November 7, 2003, rather than the presently accorded filing date of November 6, 2003.

The petition is **DISMISSED**.

Petitioner alleges that the application was deposited in Express Mail service on November 7, 2003. In support, petitioner supplied a copy of Express Mail receipt No. ER454591015US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). The "date-in" shown on the Express Mail customer label, however, is illegible.

Paragraph (c) of 37 CFR 1.10 states that:

Any person filing correspondence under 37 CFR 1.10 that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show 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 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 papers or fees that constitute the correspondence prior to the original mailing by "Express Mail," and

(3) The petition includes a true copy of the "Express Mail" mailing label showing

the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The instant petition lacks the showing required by item (3).

In regards to paragraph (3) above, petitioner must submit a true copy of the "Express Mail" mailing label showing the "date-in" and any other official notation by the USPS relied upon to show the date of deposit. The "date-in" is illegible, however, on the copy of the "Express Mail" mailing label submitted by petitioners. The date-in appears to be marked over and the USPS postmark on the copy of label provided, is also not clear. Petitioners must supply a copy of the "Express Mail" mailing label clearly showing the "date-in" or any other official notation by the USPS. Alternatively, petitioners may submit official documentation obtained directly from the USPS confirming that the Express Mail mailing was deposited in Express Mail service on the alleged mailing date.

Unless petitioners file a reply with additional proof that the filing date was November 7, 2003, the application will be processed with a filing date of November 6, 2003, the filing date that has been accorded.

Additionally, the fee for a petition to accord a filing date is set at \$400 which if merits and with the proper showing, can be refunded. Since the instant petition is not grantable, petitioner's deposit account no. 50-0208 will be charged \$270, the difference between the petition fee paid (\$130) and that which is owed.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



DOCKET CLERK
P.O. DRAWER 800889
DALLAS TX 75380

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MAR 16 2005

In re Application of
William Joseph Sember
Application No. 10/703,700
Filed: November 6, 2003
Attorney Docket No. 2003.10.019.WSO

OFFICE OF PETITIONS

:
:
: DECISION ON PETITION
:

This is a decision on the request for reconsideration filed March 7, 2005, requesting that the above-identified application be accorded a filing date of November 7, 2003 rather than the presently accorded filing date of November 6, 2003.

Petitioners request the later filing date on the basis that the application was deposited in Express Mail service on November 7, 2003, pursuant to the requirements of 37 CFR 1.10.

A petition under 37 CFR 1.10(d) was filed January 18, 2005 and dismissed in a decision mailed February 2, 2005 because petitioners failed to show that the application had been deposited in the USPS Express Mail Service on November 7, 2004.

Petitioners argue that the USPS inadvertently handwrote the date of the deposit as November 6, 2003 and then corrected the date to November 7, 2003 on the Express Mail Label. Petitioners argue further that the application was actually deposited with the USPS on November 7, 2003.

In support, petitioners have provided a copy of Express Mail receipt No. ER454591015US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file) with an time in of 3pm and an email from the USPS Track & Confirm Database which confirms that the package bearing Express Mail receipt No. ER454591015US was en route on November 7, 2003 at 8:52pm. If the package had been deposited on November 6, 2003 at 3pm it would have been enrout on November 6, 2003. In view thereof, it is concluded that the correct date of deposit in Express Mail service is November 7, 2003. Therefore, the application is entitled to a filing date of November 7, 2003.

The petition is **GRANTED**. The petition fee in the amount of \$400.00 will be credited to deposit account no. 50-0208.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of November 7, 2003, not November 6, 2003.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

LOEFFLER JONAS & TUGGEY, LLP
755 EAST MULBERRY STREET
SUITE 200
SAN ANTONIO TX 78212

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FEB 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Richard L. Watson, Jr.	:	
Application No. 10/703,710	:	DECISION ON PETITION
Filed: November 7, 2003	:	UNDER 37 C.F.R. § 1.137(b)
Attorney Docket Number:	:	
80191.00004	:	
Title: UMBILICAL CORD CLAMP AND	:	
CUTTER	:	

This is a decision on the petition, pursuant to 37 C.F.R. § 1.137(b)¹, to revive the above-identified application, filed on November 30, 2007.

This petition is **DISMISSED**.

The above-identified application became abandoned for failure to submit the drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed July 30, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees². Accordingly, the above-identified application

¹ A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

² See MPEP § 710.02(e).

became abandoned on October 31, 2007. A Notice of Abandonment was mailed on November 28, 2007.

With the present petition, Petitioner has submitted the publication fee along with a portion of the petition and issue fees, and has made the required statement of unintentional delay. A terminal disclaimer is not required.

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. § 1.137(b) is set forth in 37 C.F.R. § 1.17(m) as being \$1540 for a large entity and \$770 for a small entity. With the present petition, Petitioner submitted \$750 towards the petition fee. As such, the petition fee has not been submitted in full, and requirement number (2) has not been met.

The payment of the required petition fee in full is a prerequisite to the filing of a petition to revive pursuant to 37 C.F.R. § 1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. § 711.03(c)(III)(B)³.

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail⁴, hand-delivery⁵, or facsimile⁶. Registered

³ "...[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. §41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. §1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), reprinted in 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office...will not reach the merits of any petition under 37 C.F.R. §1.137 lacking the requisite petition fee."

⁴ Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

⁵ Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

⁶ (571) 273-8300- please note this is a central facsimile number.

users of EFS-Web may alternatively submit a response to this decision via EFS-Web⁷.

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Petitioner will note that the issue fee is presently set at \$720.

It is noted that the address listed on the petition differs from the address of record.

When placing his address on this petition, Petitioner failed to include his city, state, or zip code. When placing an address on correspondence with the Office, Petitioner should ensure that it is his complete address that he has included.

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 the undersigned at (571) 272-3225⁸. All other inquiries

⁷ <https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>

⁸ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: William Quirk
Matamus Partners, Ltd.
15303 Huebner Rd., Bldg. 13
San Antonio, TX 78248



UNITED STATES 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.

William H. Quirk
Law Offices of William H. Quirk
15715 Horse Creek Street
San Antonio TX 78232

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MAY 27 2008

OFFICE OF PETITIONS

In re Application of :
Richard L. Watson, Jr. :
Application No. 10/703,710 : DECISION ON RENEWED PETITION
Filed: November 7, 2003 : PURSUANT TO
Attorney Docket Number: : 37 C.F.R. § 1.137(b)
80191.00004 :
Title: UMBILICAL CORD CLAMP AND :
CUTTER :

This is a decision on the renewed petition, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application, filed on April 8, 2008.

The concurrently filed Power of Attorney and Correspondence Address Indication form has been entered and made of record.

This renewed petition is **GRANTED**.

This application became abandoned for failure to submit the issue or publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed July 30, 2007, which set a shortened statutory period for reply of three months¹. No extensions of time are permitted for transmitting issue or publication fees². Accordingly, the above-identified

¹ The decision on the original petition incorrectly indicated that this application became abandoned for failure to submit drawings in a timely manner - the Office regrets this typographical error.

² See MPEP § 710.02(e).

Decision on Renewed Petition pursuant to 37 C.F.R. § 1.137(b)

application became abandoned on October 31, 2007. A Notice of Abandonment was mailed on November 28, 2007.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

An original petition was filed on November 30, 2007, along with the publication fee, a portion of the petition fee, a portion of the issue fee, and the required statement of unintentional delay. As such, the original petition satisfied requirement (3) of Rule 1.137(b). The fourth requirement is not applicable, as a terminal disclaimer is not required.

Note: 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 delay³. In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, Petitioner must notify the Office.

With this renewed petition, Petitioner has submitted the remainder of the fees that are due, and as such, the issue and publication fees have been paid in full.

³ See 37 C.F.R. § 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

Decision on Renewed Petition pursuant to 37 C.F.R. § 1.137(b)

As such, each of the first three requirements of Rule 1.137(b) has been met. The fourth requirement is not applicable.

It is noted in passing that Petitioner has indicated that he believes that the fee change went into effect on May 16, 2007, that "on-line sources still show" outdated information pertaining to the amount of the petition fee, and has cited to a commercial website. Fee changes typically go into effect during the month of October, and the present fees have been effective as of September 30, 2007. For future reference, Petitioner may wish to consult the official Office website when attempting to determine a fee amount. Current fee information is available at this location:

<http://www.uspto.gov/web/offices/ac/qs/ope/fee2007september302008may15.htm>

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225⁴. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/

Paul Shanoski

Senior Attorney

Office of Petitions

⁴ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.



ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

COPY MAILED
DEC 02 2008

In re Application of :
Betsy Reagan Roy :
Application No. 10/703,742 : **DECISION ON PETITION**
Filed: November 7, 2003 :
Attorney Docket No. 14220.4001 :

This is a decision on the petition under 37 CFR 1.182, filed, September 24, 2008, to change the name of inventor "Elizabeth Roy" to – Betsy Reagan Roy --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Applicant may consider filing an Application Data Sheet or supplemental declaration to indicate the name change of Betsy Reagan Roy.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3687.


Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Table with 7 columns: APPLICATION NUMBER, FILING or 371(c) DATE, GRP ART UNIT, FIL FEE REC'D, ATTY.DOCKET.NO, TOT CLAIMS, IND CLAIMS. Values: 10/703,742, 11/07/2003, 3687, 689, 14220.4001, 37, 5

CONFIRMATION NO. 2528

CORRECTED FILING RECEIPT



34313
ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

Date Mailed: 11/26/2008

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)

Betsy Reagan Roy, San Diego, CA;

Assignment For Published Patent Application

QD Financial, LLC

Power of Attorney: The patent practitioners associated with Customer Number 34313

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/09/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US 10/703,742

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Systems and methods for generating audited and unaudited financial statements and reports

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 Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of :
Wilson and Estrada :
Application No.: 10/703,764 : DECISION ACCORDING
Filed: November 6, 2003 : RULE 47(a) STATUS
Attorney Docket No: 074236.0104
Invention: **METHOD AND APPARATUS FOR SURFACE SAMPLING**

This is in response to the petition under 37 CFR 1.47(a), filed April 9, 2004.

The petition is **GRANTED**.

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

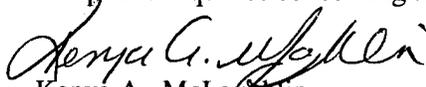
The above-cited application was filed on November 6, 2003, without a properly executed declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on February 10, 2004, allowing a shortened period for reply of two months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). The notice required a proper oath or declaration to be filed and payment of a surcharge. The instant petition was filed on April 9, 2004.

Petitioner has shown that inventor Estrada refuses to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

This application will be forwarded to the Office of Initial Patent Examination for further processing.

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


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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LARRY W. THROWER
P.O. BOX 7611
BERKELEY, CA 94706

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of
Michael Eric GERTNER
Application No. 10/703,765
Filed: November 7, 2003
Attorney Docket No. 4925-0002

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 4, 2008.

The request is **APPROVED**.

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

The request was signed by Larry W. Thrower on behalf of all the attorney/agents of record associated with Customer No. 51688.

All attorneys/agents of record associated with Customer No. 51688 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

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

There are no outstanding Office actions pending at the present time.



Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MICHAEL GERTNER
P.O. BOX P
MENLO PARK, CA 94026



**SHOEMAKER AND MATTARE
10 POST OFFICE ROAD - SUITE 110
SILVER SPRING, MD 20910**

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MAY 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Ermiro Palmiri	:	
Application No. 10/703,773	:	
Filed: November 7, 2003	:	ON PETITION
Attorney Docket No. 71193	:	
For: BLOCK MANIFOLD FOR LARGE-SIZED	:	
THERMAL EXCHANGE BATTERIES	:	

This is a decision on the petition under 37 CFR 1.137(b), to revive the above-identified application and on the petition under 37 CFR 1.47(b), filed April 8, 2005.

The petitions are **DISMISSED**.

Any request for reconsideration must be submitted within TWO MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any reply should be entitled "Renewed Petitions under 37 CFR 1.137(b) and 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 nonsigning inventor. 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 1.17(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) since the application cannot be revived until such time as a grantable petition under 37 CFR 1.47(b) has been received.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Applicant lacks items (1) and (3) set forth above.

As to item (1), petitioner has failed to adequately show or provide proof that the nonsigning inventor Ermiro Palmiri refuses to join in the application after having been presented with the application papers (specification, claims, and drawings). There is no indication whether Mr. Palmiri was presented with a copy of the complete application papers. If Mr. Palmiri was not presented with a copy of the application papers, then he could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Did Mr. Palmiri receive the application papers? See MPEP 409.03(d). Unless petitioner can show that a copy of the application papers was presented to Mr. Palmiri, then petitioner will have to mail a copy of the complete application papers to Mr. Palmiri at his last known address, return receipts requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. 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 certified mail return receipt, cover letter of instructions, telegrams, etc., to support a showing that the nonsigning inventor has refused to sign the declaration after having been presented with the application papers. See MPEP 409.03(d).

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

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

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

As to item (3), an additional petition fee of \$70 (\$200 - 130) is required by 37 CFR 1.17(g).

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

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


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



SHOEMAKER AND MATTARE
10 POST OFFICE ROAD - SUITE 110
SILVER SPRING, MD 20910

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FEB 09 2006

OFFICE OF PETITIONS

In re Application of :
Ermiro Palmiri :
Application No. 10/703,773 :
Filed: November 7, 2003 :
Attorney Docket No. 71193 :
For: BLOCK MANIFOLD FOR LARGE-SIZED :
THERMAL EXCHANGE BATTERIES :
:DECISION ON PETITION TO
:REVIVE AND DECISION NOTING
:JOINDER OF INVENTOR AND
:PETITION UNDER 37 CFR
:1.47(b) MOOT

This is a decision on the renewed petitions under 37 CFR 1.137(b) and 37 CFR 1.47(b), filed November 14, 2005 requesting reconsideration of the decision mailed May 12, 2005. Papers filed on November 14, 2005 included a Declaration signed by previously nonsigning inventor Ermiro Palmiri in compliance with 37 CFR 1.63.

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

The petition under 37 CFR 1.47(b) is **DISMISSED AS MOOT**.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is moot; this application does not have any rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(b).

A four (4) month extension of time was charged from petitioner's Deposit Account No. 19-2110.

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

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

Frances Hicks
Lead Petitions Examiner
Office of Petitions



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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA, GA 30339-5948

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of

Jason Chen

Application No. 10/703,782

Filed: November 8, 2003

Attorney Docket No. 250214-1020

: DECISION ON PETITION

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

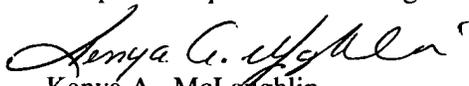
The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed September 26, 2006, which set a shortened period for reply of one (1) month 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 27, 2006. A Notice of Abandonment was mailed on February 6, 2007.

The amendment filed September 14, 2007, is noted.

The application is being forwarded to Technology Center 2600, GAU 2612 for further processing.

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


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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DEC 22 2008

OFFICE OF PETITIONS

LEWIS AND ROCA LLP
1663 Hwy 395, Suite 201
Minden NV 89423

In re Patent No. 7,028,336 : DECISION GRANTING PETITION
Issue Date: April 11, 2006 : UNDER 37 CFR 1.78(a)(3) AND
Application No. 10/703,806 : REQUEST FOR CERTIFICATE OF
Filed: November 6, 2003 : CORRECTION
Attorney Docket No. GRAPH-003COH :

This is a decision on the petition, filed October 17, 2008, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/552,476 and delete the priority claim to 09/564,922, 09/174,723, 08/595,957, 09/189,697, and 08/607,068 by way of a certificate of correction.

The petition is **GRANTED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed November 6, 2003. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. See MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

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

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

37 CFR 1.78(a)(3)(iii) requires a statement that the entire delay between the date the claim was due under (a)(2)(ii) of 37 CFR 1.78 and the date the claim was filed was unintentional.

Since the statement contained in this renewed petition varies slightly from the language required by 37 CFR 1.78(a)(3)(iii), the statement contained in this petition is being construed as the statement required by 37 CFR 1.78(a)(3)(iii), and petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

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

As authorized, the \$1,410 surcharge fee, as well as the \$100 certificate of correction fee, will be charged to petitioner's Deposit Account No. 50-2638.

Any inquiries concerning this decision may be directed to Alesia M. Brown, Petitions Attorney, at (571) 272-3205.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).


Anthony Knight
Supervisor
Office of Petitions



CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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DEC 1 2 2008

OFFICE OF PETITIONS

In re Application of Serbedzija et al. :
Application No. 10/703,807 : Decision on Petition
Filing Date: November 7, 2003 :
Attorney Docket No. 50164/028002 :

This is a decision on the petition under 37 CFR 1.181 filed July 10, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted**.

The Office mailed a non-final Office action on December 13, 2007. The Office action set a shortened statutory period for reply of three months.

The Office's file for the application includes a reply to the Office action, a request for a three-month extension of time, and payment for a three-month extension of time filed on June 16, 2008. The reply contained a Certificate of Mailing in compliance with 37 CFR 1.8(a). The Certificate of Mailing indicated the reply was mailed June 13, 2008. Therefore, the reply was timely filed.

The Office mailed a Notice of Abandonment on July 2, 2008, stating the application was abandoned because a reply was never filed in response to the December 13, 2007. However, the application file includes such a reply and the application is not abandoned.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 1617 will be informed of the instant decision and the application, including the reply filed June 16, 2008, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



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Paper No.

LEWIS AND ROCA LLP
1663 Hwy 395, Suite 201
Minden NV 89423

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JAN 05 2009

OFFICE OF PETITIONS

In re Application of :
Ralph E. Wesinger, Jr., et al. :
Application No. 10/703,821 : DECISION ON PETITION
Filing Date: November 7, 2003 : PURSUANT TO
Patent No. 7,249,376 : 37 C.F.R. § 1.78(A)(3)
Issue Date: July 24, 2007 :
Attorney Docket No.: GRAPH- :
003COJ :
Title: FIREWALL PROVIDING :
ENHANCED NETWORK SECURITY AND :
USER TRANSPARENCY :

This is a decision on the petition pursuant to 37 C.F.R. § 1.78(a)(3), filed October 27, 2008 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to a prior-filed U.S. application, set forth in the amendment filed concurrently with this petition.

Receipt of the concurrently submitted certificate of correction along with the associated fee, and the petition fee is acknowledged.

This petition is GRANTED.

A petition for acceptance of a claim for late priority under 37 C.F.R. § 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 C.F.R. 1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. 1.78(a)(3) must be accompanied by:

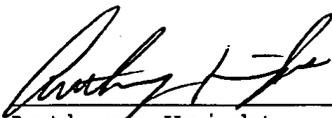
- (1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. §1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and the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

37 C.F.R. § 1.78(a)(3)(iii) requires a statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of 37 C.F.R. § 1.78 and the date the claim was filed was unintentional.

Since the statement contained in this renewed petition varies slightly from the language required by 37 C.F.R. § 1.78(a)(3)(iii), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.78(a)(3)(iii), and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

The certificate of correction branch will be made aware of this decision.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.¹



Anthony Knight
Supervisor
Office of Petitions

¹ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.



LEWIS AND ROCA LLP
1663 HWY 395, SUITE 201
MINDEN, NV 89423

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AUG 25 2008

In re Application of :
Ralph E. Wesinger Jr. et al :
Application No. 10/703,822 : **ON PETITION**
Filed: November 7, 2003 :
Attorney Docket No. GRAPH-003COG :

This is a decision on the petition, filed August 21, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 4, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

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

This matter is being referred to Technology Center AU 2131 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).



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SIERRA PATENT GROUP, LTD.
P O BOX 6149
STATELINE, NV 89449

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DEC 17 2004

OFFICE OF PETITIONS

In re Application of :
Ralph E. Wesinger, et al. :
Application No. 10/703,823 :
Filed: November 7, 2003 :
Attorney Docket No. NES-014COA

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 Office of Petitions Staff at (571) 272-3201.

This file is being forwarded to Technology Center 2171 for examination in due course.


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



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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HARMAN - BRINKS HOFER INDY
Brinks Hofer Gilson & Lione
CAPITAL CENTER, SUITE 1100
201 NORTH ILLINOIS STREET
Indianapolis, IN 46204-4220

Mail Date: 04/21/2010

Applicant	: Bradley F. Eid	: DECISION ON REQUEST FOR
Patent Number	: 7606376	: RECALCULATION OF PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/703,826	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1437** 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.



ISPG PC
10121 MILLER AVE
201
CUPERTINO, CA 95014

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MAY 29 2007

OFFICE OF PETITIONS

In re Application of
Brian Hang Wai Yang
Application No. 10/703,842
Filed: November 7, 2003
Attorney Docket No. RZMI-P317

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 1, 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 request is being made because the assignee wishes to terminate representation” does not meet any of the conditions set forth in 37 CFR 10.40.

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

evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on October 26, 2006 does not include a proper signature from the applicant.

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

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



April M. Wise
Petitions Examiner
Office of Petitions

cc: RAZA MICROELECTRONIC, INC.
LEGAL DEPARTMENT
18920 FORGE DRIVE
CUPETINO, CA 95014-0701



ZILKA-KOTAB, PC – RMI
P.O. BOX 721120
SAN JOSE CA 95172-1120

COPY MAILED

OCT 16 2008

OFFICE OF PETITIONS

In re Application of :
Brian Hang Wai Yang :
Application No. 10/703,842 : DECISION ON PETITION
Filed: November 7, 2003 :
Attorney Docket No. RAZA-03300 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection mailed June 4, 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 2166 for appropriate action by the Examiner in the normal course of business on the reply received

Karen Creasy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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ZILKA-KOTAB, PC- RMI
P.O. BOX 721120
SAN JOSE, CA 95172-1120

Mail Date: 04/21/2010

Applicant	: Brian Hang Wai Yang	: DECISION ON REQUEST FOR
Patent Number	: 7617241	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/703,842	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1274** 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.



IPSG, P.C.
P.O. BOX 700640
SAN JOSE CA 95170-0640

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of :
Roger Patrick et al :
Application No. 10/703,843 : DECISION GRANTING PETITION
Filed: November 7, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. LMRX-P024/P1135 :

This is a decision on the petition, filed February 15, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is GRANTED.

Petitioner states that the instant nonprovisional application is the subject of an PCT application filed in an eighteen month publication country on October 28, 2004¹. 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.

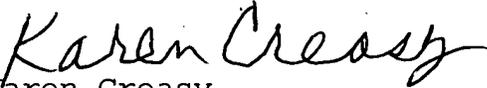
¹Petitioner should notify the USPTO if the filing date of October 28, 2004, of the PCT foreign filing is incorrect.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of September 22, 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 forwarded to Technology Center Art Unit 2828.



Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request



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PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
SUITE 223
SAN JOSE, CA 95134

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of :
Xingguo Wang, et al. :
Application No.: 10/703,847 :
Filed: November 7, 2003 :
Attorney Docket No.: ARC-P129 :

ON PETITION

This is a decision on the petition, filed June 18, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 6, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2624 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 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.



MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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FEB 09 2007

In re Application of :
Tsutomu Ogihara et al :
Application No. 10703854 :
Filed: November 7, 2003 :
Attorney Docket No. 5576-155 :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition, filed February 5, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 3, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 2823 will consider the request for continued examination under 37 CFR 1.114.


Karen Creasy
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/13/06

Paper No.: _____

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/203 871 Patent No.: 7046 872 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: _____

JDL

[Signature]

SPE

Art Unit



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

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FEB 09 2007

OFFICE OF PETITIONS

In re Application of :
Mentze et al. : DECISION ON PETITION TO
Application No. 10/703,878 : WITHDRAW HOLDING OF
Filed: 7 November, 2003 : ABANDONMENT
Attorney Docket No. 200308932-1 :

This is a decision on the petition filed under 37 CFR 1.137(a) & (b) and 1.181 on 10 November, 2006, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely reply to the non-final Office action mailed on 17 June, 2006, which set a three (3)-month shorted statutory period for reply. Notice of Abandonment was mailed on 6 October, 2006.

Petitioners assert that the non-final Office action mailed on 16 March, 2006, 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, James D. Shaurette, stating that he reviewed the assignee's mail logs, and attesting to the fact that a search of the assignee's mail log indicates that the Office action was never received. A copy of the assignee's mail log where the non-received Office action would have been entered had it been received is attached.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is GRANTED.

It is noted that applicant has filed an amendment in reply to the Office action mailed on 16 March, 2006, with the present petition. As such the Office action will not be remailed.

As no petition fee is due, the fee submitted with the petition will be refunded to counsel.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being forwarded to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application file is being referred to Technology Center Art Unit 2154 for consideration of the reply filed with the present petition.

Application No. 10/703,878

3

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: JAMES D. SHAURETTE
WELLS ST. JOHN, P.S.
601 W. FIRST AVENUE #1300
SPOKANE WA 99201


UNITED STATES PATENT AND TRADEMARK OFFICE

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 United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/703,900	11/06/2003	2155	770	END920030093US1	4	17	3

CONFIRMATION NO. 2588
CORRECTED FILING RECEIPT


OC000000012387735

 26502
 IBM CORPORATION
 IPLAW IQ0A/40-3
 1701 NORTH STREET
 ENDICOTT, NY 13760

Date Mailed: 04/19/2004

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

Applicant(s)

Jason D. Forrester, Thornton, CO;

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: 02/05/2004
Projected Publication Date: 05/12/2005
Non-Publication Request: No
Early Publication Request: No
Title

Load balancing of servers in a cluster

Preliminary Class

709

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

GRANTED

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

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

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

NOT GRANTED

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


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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/703,901	11/06/2003	3629	770	END920030083US1	1	15	2

CONFIRMATION NO. 2587

 26502
 IBM CORPORATION
 IPLAW IQ0A/40-3
 1701 NORTH STREET
 ENDICOTT, NY 13760

CORRECTED FILING RECEIPT


OC000000012614753

Date Mailed: 05/12/2004

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

Applicant(s)

 Nancy L. Burchfield, Dana Point, CA;
 Chester M. Mauk, Waynesboro, PA;

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: 02/05/2004

Projected Publication Date: 05/12/2005

Non-Publication Request: No

Early Publication Request: No

Title

Benchmarking of computer and network support services

Preliminary Class

705

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

GRANTED

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

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

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

NOT GRANTED

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



Track & Confirm

Shipment Details

You entered EV34 2658 967U S

Your item was delivered at 9:08 am on November 10, 2003 in ALEXANDRIA, VA 22313 to PATENT OFFICE. The item was signed for by R ATIATI.

Here is what happened earlier:

- ARRIVAL AT PICK-UP-POINT, November 08, 2003, 6:55 am, ALEXANDRIA, VA 22313
- ARRIVAL AT UNIT, November 08, 2003, 6:39 am, DULLES, VA 20102
- ENROUTE, November 06, 2003, 6:44 pm, BINGHAMTON, NY 13901
- ACCEPTANCE, November 06, 2003, 4:06 pm, ENDICOTT, NY 13760

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Angenehm Law Firm, Ltd.
P.O. Box 48755
Coon Rapids MN 55448-0755

COPY MAILED**MAY 17 2004****OFFICE OF PETITIONS**

In re Application of
Michael Juenemann
Application No. 10/703,913
Filed: November 7, 2003
Attorney Docket No. J443-035-PAT

:
:
: DECISION GRANTING PETITION
:
:
:

This is a decision on the petition under 37 CFR 1.53, filed April 2, 2004, requesting that the above-identified application be accorded a filing date of November 7, 2003, with Figure 8 described in the specification as part of the original disclosure.

On November 7, 2003, applicants filed the above-identified application. On March 19, 2004, the Office mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of November 7, 2003, and advising applicants that Figure 8 appeared to have been omitted.

In response, on April 2, 2004, applicants filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of "Figures (Fig. 1-19, 16 pgs.)" on November 7, 2003. Additionally, applicants submitted one sheet of drawings, containing Figure 8 with the present petition.

Upon review of the record, Figure 8, deposited on November 7, 2003, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on November 7, 2003, included Figure 8, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figure 8, was complete on filing and will be granted a filing date of November 7, 2003.

Accordingly, the petition is granted and the application will be accorded a filing date of November 7, 2003, with Figure 8 as part of the original disclosure.

The requirement for the submission of omitted drawing Figure 8 was sent in error and is hereby vacated. No petition fee is necessary.

The Office of Initial Patent Examination is directed to accord the application a filing date of November 7, 2003, with Figure 8 as part of the original disclosure. The record should indicate that 16 sheets of drawings were submitted on filing.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina P. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



27 OCT 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

REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA GABRIEL, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE WI 53202

In re Application of	:	
TAYLOR et al.	:	DECISION ON
Application No.: 10/703,923	:	
Filing Date: 07 November 2003	:	PETITION
Attorney's Docket No.: 8041	:	
For: HIGH FLUX, HIGH ENERGY	:	37 CFR 1. 182
PHOTON SOURCE	:	

This is a decision in response to applicant's "Petition Under 37 CFR 1.181 to Treat an Application as a Submission to Enter the National Stage under 35 U.S.C. 371", treated as a petition under 37 CFR 1.182, and filed in the United States Patent and Trademark Office (USPTO) on 07 October 2005. The petition requests that the above referenced application be converted from a application filed under 35 U.S.C. 111(a) to an application filed under 35 U.S.C. 371. The \$400 petition fee was paid.

BACKGROUND

On 03 May 2002 applicant filed international application PCT/GB02/02063, which claimed priority of an earlier British application filed 08 May 2001.

On 07 November 2003, applicant filed both a Utility Transmittal Letter (Only for new nonprovisional application under 37 CFR 1.53(b) and a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning A Filing under 35 U.S.C. 371" with authorization to charge applicant's deposit account for the basic filing fee. Applicant filed a specification, claims and drawings.

On 19 August 2005, a Notification of Missing Parts was mailed to applicant. On 11 October 2005, applicant filed a response. On 07 October 2005 applicant filed the instant petition to convert. Petitioner requests that the application mistakenly filed under 35 U.S.C. 111(a) and 37 CFR 1.53 be converted to a national stage application filed under 35 U.S.C. 371.

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). The official PTO Notice published in the Official

Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.

* * *

To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter.

* * *

If there are any conflicting instructions as to which section of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

The Transmittal Letter (Form-1390) used by applicant is to be used only with submissions under 35 U.S.C. 371. The Office provides the TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371 (FORM PTO-1390) so that applicants can comply with 37 CFR 1.495(g) and so that the Office's personnel can readily distinguish between submissions under 35 U.S.C. 371 and 35 U.S.C. 111(a).

Nevertheless, applicants' use of the "Utility Patent Application Transmittal" filed 07 November 2003 contradicts the request in the Transmittal Letter to file under 35 U.S.C. 371. Applicant's reference to 37 CFR 1.53(b) in the transmittal letter is inconsistent with and would have contradicted any desire expressed in any papers filed to enter the national stage of the PCT under 35 U.S.C. 371. A national application which requests treatment under 37 CFR 1.53(b) cannot be considered the national stage application of international application PCT/GB02/02063 and is an indication of papers filed under 35 U.S.C. 111(a). In view of the above, it is proper to treat the initial filing as a filing under 35 U.S.C. 111(a).

Furthermore, U.S. statutes and regulations do not make specific provision for the requested action and as such, the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (i.e., the loss of patent rights) where no other remedy is available. In the present case, applicant requested that the application be converted but has not demonstrated that he will suffer a loss of any right if the petition to convert is not granted.

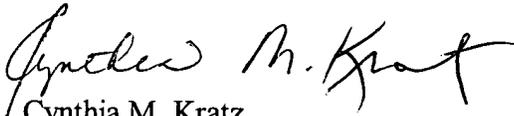
Since the application is deemed to have been filed under 35 U.S.C. 111(a), international application PCT/GB02/02063 is abandoned with respect to the United States.

The present application has been properly processed by the Office as a national stage application under 35 U.S.C. 111(a). Accordingly, it would not be appropriate to consider the conversion of the application to an application under 35 U.S.C. 371 at this time.

CONCLUSION

The petition under 37 CFR 1.182 to consider the papers filed on 07 November 2003 as a U.S. application filed under 35 U.S.C. 371(c) is DISMISSED WITHOUT PREJUDICE.

The application will be treated as an application filed under 35 U.S.C. 111(a).



Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286
Facsimile: (571) 273-0459



REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE, WI 53202

COPY MAILED

FEB 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Alan G. Taylor, et al.	:	
Application No. 10/703,923	:	DECISION ON PETITION
Filed: November 7, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 8041	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 6, 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 international application, as set forth in the accompanying 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 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 application in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed 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.

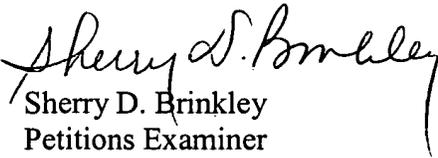
Further correspondence with respect to this matter should be addressed as follows:

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 Sherry D. Brinkley at (571) 272-3204.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions


Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions



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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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AUG 28 2007

OFFICE OF PETITIONS

REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE, WI 53202

In re Application of :
Alan G. Taylor, et al. :
Application No. 10/703,923 : **DECISION ON PETITION**
Filed: November 7, 2003 : **UNDER 37 CFR 1.78(a)(3)**
Attorney Docket No. 8041 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 11, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/GB2002/002063, filed May 3, 2002, as set forth in the accompanying amendment.

The petition is **GRANTED**.

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

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) 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.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

This application is being forwarded to the examiner of Technology Center Art Unit 2881 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 PCT application.

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


Sherry D. Brinkley
Petitions Examiner
Office of Petitions


Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt


UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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 Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLMS	IND CLMS
10/703,923	11/07/2003	2881	493	8041	20	4

CONFIRMATION NO. 5224

22922

REINHART BOERNER VAN DEUREN S.C.
 ATTN: LINDA KASULKE, DOCKET COORDINATOR
 1000 NORTH WATER STREET
 SUITE 2100
 MILWAUKEE, WI 53202

CORRECTED FILING RECEIPT


OC000000025576286

Date Mailed: 08/28/2007

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

Applicant(s)

Alan G. Taylor, London, UNITED KINGDOM;
 Christopher J. Barnett, Bromley, UNITED KINGDOM;
 David R. Klug, London, UNITED KINGDOM;
 Ian P. Mercer, Keymer, UNITED KINGDOM;

Power of Attorney: The patent practitioners associated with Customer Number **22922**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/GB2002/002063 05/03/2002

Foreign Applications

UNITED KINGDOM 0111204.4 05/08/2001

If Required, Foreign Filing License Granted: 08/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/703,923**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

High flux, high energy photon source

Preliminary Class

250

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

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

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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/703,928	11/07/2003	George Combs	PO7997/MD-01-48	3113

157 7590 03/15/2005
BAYER MATERIAL SCIENCE LLC
100 BAYER ROAD
PITTSBURGH, PA 15205

EXAMINER

WOOD, ELIZABETH D

ART UNIT PAPER NUMBER

1755

DATE MAILED: 03/15/2005

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 15 2005

In re Application of :
George Combs :
Serial No. 10/703,928 :
Filed: November 7, 2003 :
For: UNSATURATED TERTIARY ALCOHOLS :
AS LIGANDS FOR ACTIVE DMC CATALYSTS :

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Jerry Lorengo at (571) 272-1233.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

BAYER MATERIAL SCIENCE LLC
100 Bayer Road
Pittsburgh, PA 15205

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/15/06

Paper No.: _____

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/203940 Patent No.: 705581B2

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: _____

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

1712

SPE

Art Unit



101 703 940

C 02 C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:

WILLIBALD BURGER, et al.

U.S. Patent No.: 7,105,581

Issue Date: September 12, 2006

For: ANTIFOAM FORMULATIONS

Attorney Docket No.: WAS 0605 PUS

REQUEST FOR "CERTIFICATE OF CORRECTION"

Attention Certificate of Correction Branch
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate
OCT 30 2006
of Correction

Sir:

It is requested that a Certificate of Correction be issued for the above-identified patent under the provisions of 37 C.F.R. § 1.322. The corrections noted are as follows:

Column 14, Line 47, Claim 1:
(Page 2, Line 13, Claim 1: Amendment dated March 20, 2006):

Delete "R₂Si-R₂" and insert therefor - R₂SiR²-.

Enclosed herewith are two copies of the form for Certificate of Correction (PTO/SB/44).

OCT 30 2006

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8 (FIRST CLASS MAIL)

I hereby certify that this paper, including all enclosures referred to herein, is being deposited with the United States Postal Service as first-class mail, postage pre-paid, in an envelope addressed to: Attention Certificate of Correction Branch, Commissioner for Patents, U.S. Patent & Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 on:

10/23/2006

Date of Deposit

William G. Conger
Name of Person Signing

Signature

The Commissioner is hereby authorized to charge any additional fees to our
Deposit Account No. 02-3978.

Respectfully submitted,
WILLIBALD BURGER, et al.

By 
William G. Conger
Reg. No. 31,209
Attorney/Agent for Applicant

Date: October 23, 2006

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: (248) 358-4400
Fax: (248) 358-3351

OCT 30 2006

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 : 7,105,581
DATED : September 12, 2006
INVENTOR(S) : WILLIBALD BURGER, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Column 14, Line 47, Claim 1:

Delete " R_2Si-R_2 " and insert therefor $- R_2SiR^2 -$.

MAILING ADDRESS OF SENDER:

PATENT NO. 7,105,581

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, Michigan 48075-1238

OCT 30 2006 of additional copies
⇒

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent & Trademark Office, 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, U.S. Patent & Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

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 : 7,105,581
DATED : September 12, 2006
INVENTOR(S) : WILLIBALD BURGER, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Column 14, Line 47, Claim 1:

Delete " R_2Si-R_2 " and insert therefor $- R_2SiR^2 -$.

MAILING ADDRESS OF SENDER:

PATENT NO. 7,105,581

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, Michigan 48075-1238

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Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent & Trademark Office, 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, U.S. Patent & Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.



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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

COPY MAILED

JAN 17 2007

OFFICE OF PETITIONS

In re Application of
WANG, et al.
Application No. 10/703,945
Filed: 11/07/2003
Attorney Docket No. 529252000700

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. § 1.136(b), filed November 30, 2006.

The request is **APPROVED**.

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

The request was signed by Peter J. Yim on behalf of all attorneys of record who are associated with customer No. 20872. All attorneys/agents associated with the Customer Number 20872 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: **KEVIN WANG**
1180 REED AVENUE, #33
SUNNYVALE, CA 94086

cc: **MICHAEL J. MALLIE**
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1278 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040


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UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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 Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/703,945	11/07/2003	Kevin Wang	529252000700

20872
 MORRISON & FOERSTER LLP
 425 MARKET STREET
 SAN FRANCISCO, CA 94105-2482

CONFIRMATION NO. 2766


OC000000022015300

Date Mailed: 01/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/30/2006.

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

MONICA A GRAVES
 OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY



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

Mail Date: 04/21/2010

Applicant : Kevin Wang : DECISION ON REQUEST FOR
Patent Number : 7613139 : RECALCULATION of PATENT
Issue Date : 11/03/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/703,945 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/07/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1355** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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PENNING, MOORE, WILKINSON, BELL & DUNBAR
P.O. BOX 10095
TALLAHASSEE FL 32302-2095

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· OCT 10 2006

OFFICE OF PETITIONS

In re Application of :
Richard Vest Campbell :
Application No. 10/703,948 : DECISION GRANTING PETITION
Filed: November 7, 2003 : UNDER 37 CFR 1.137(b)
For: FILLER POTTING CABLE :
TERMINATION SYSTEM AND PROCESS :

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Non-final Rejection of November 17, 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 1733.

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
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Date Mailed : 9-14-06

Patent No.: 7,080,104 B2
Patent Issued : July 18, 2006
Inventor(s) : Cameron T. Ring, et. al.
Title: SYNCHRONIZATION AND MERGE ENGINES
Docket No.:

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322.

The alleged error in col. 25, line 15 is printed in accordance with the record.
There was no money in your account to accommodate this error.

In view of the foregoing, your request is hereby denied. However, further consideration will be given upon receipt of a request for reconsideration directed to Decisions & Certificates of Correction Branch.

Eva James
For Cecelia B. Newman
Certificate of Correction Branch
(703) 308-9390 ext. 124 or ext. 102

Antonia L. Sequeira
Fenwick & West LLP
801 California Street
Mountain View, CA 94041

ej



Paper No.

SALIWANCIK LLOYD &
SALIWANCIK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE FL 32614

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Cuevas et al.	:	
Application No. 10/703,953	:	LETTER REGARDING
Filed: November 7, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. USF-185CX1	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed March 4, 2009. Pursuant to their duty of good faith and candor to the Office, applicants disclose that the initial patent term adjustment should be only sixty-five (65) days, not one hundred twenty-two (122) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED to the extent indicated herein.**

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is forty-eight (48) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On January 12, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 122 days. Applicants disclose that a period of reduction of 57 days should have been entered for the filing of a notice of appeal (and third amendment) on November 25, 2008.

Applicants are correct. 37 CFR 1.704(b) provides that:

With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), 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. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

Pursuant to 37 CFR 1.704(b), a total period of reduction of 90 (33 + 57) days should have been entered. As both the amendment filed August 27, 2008 and the amendment filed September 29, 2008 were not in compliance with § 1.113(c), the period for reply to the final rejection mailed May 27, 2008, continued to run. See Advisory Actions mailed September 11, 2008 and October 23, 2008. The proper reply, a Notice of Appeal (and third amendment), were not received in the Office until November 25, 2008. As acknowledged by applicants, the reply filed November 25, 2008 placed the application in condition for allowance. Accordingly, the reduction began August 28, 2008, the day after the date that is three months after the date of mailing of the final rejection, and ended November 25, 2008, the date the Notice of Appeal was filed. To correct this period of reduction from 33 days to 90 days, an additional period of reduction of 57 days has been entered for a total reduction of 90 days.

A review of the record reveals that a period of reduction of 17 days should have been entered for the filing of the supplemental amendment on June 8, 2007. 37 CFR 1.704 (c) provides 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:

(8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, applicants filed a response to a final rejection on May 22, 2007. Thereafter, on June 8, 2007, applicants filed the supplemental amendment. The supplemental amendment was not expressly requested by the examiner. Accordingly, pursuant to § 1.704(c)(8), an additional period of reduction of 17 days is being entered.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the notice of allowance is forty-eight (48) days (346 days of Office delay reduced by 95 + 96 + 17 + 90 (33 + 57)) days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the \$200.00 fee 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 of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

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

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with a large initial "N" and "J".

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PALM Screen

PALM INTRANET

PTA Calculations for Application: 10/703953			
Application Filing Date:	11/07/2003	PTO Delay (PTO):	346
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	224
Post-Issue Petitions:	0	Total PTA (days):	48
PTO Delay Adjustment:	-74		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
95	06/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		17	
94	06/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		57	
82	01/12/2009	MAIL NOTICE OF ALLOWANCE			
81	01/08/2009	ISSUE REVISION COMPLETED			
80	01/08/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
79	01/08/2009	DOCUMENT VERIFICATION			
78	01/08/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
77	01/06/2009	EXAMINER'S AMENDMENT COMMUNICATION			
76	01/06/2009	NOTICE OF ALLOWABILITY			
72	12/08/2008	DATE FORWARDED TO EXAMINER			
71	11/25/2008	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
70	11/25/2008	NOTICE OF APPEAL FILED			
69	11/25/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
68	10/23/2008	MAIL ADVISORY ACTION (PTOL - 303)			
67	10/22/2008	ADVISORY ACTION (PTOL-303)			
65	10/06/2008	DATE FORWARDED TO EXAMINER			
64	09/29/2008	AMENDMENT AFTER FINAL REJECTION		33	58
63	09/29/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
62	09/11/2008	MAIL ADVISORY ACTION (PTOL - 303)			
61	09/11/2008	ADVISORY ACTION (PTOL-303)			
60	09/09/2008	DATE FORWARDED TO EXAMINER			
59	08/27/2008	AMENDMENT AFTER FINAL REJECTION			

58	05/27/2008	MAIL FINAL REJECTION (PTOL - 326)			
57	05/23/2008	FINAL REJECTION			
55	03/25/2008	DATE FORWARDED TO EXAMINER			
54	02/27/2008	RESPONSE AFTER NON-FINAL ACTION		96	50
53	02/27/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
50	08/23/2007	MAIL NON-FINAL REJECTION			
49	08/20/2007	NON-FINAL REJECTION			
48	06/18/2007	DATE FORWARDED TO EXAMINER			
47	06/08/2007	SUPPLEMENTAL RESPONSE			
46	05/29/2007	DATE FORWARDED TO EXAMINER			
45	05/22/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
44	05/29/2007	DATE FORWARDED TO EXAMINER			
43	05/22/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
42	05/29/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
41	05/22/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
40	02/22/2007	MAIL FINAL REJECTION (PTOL - 326)			
39	02/16/2007	FINAL REJECTION			
38	11/22/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
37.7	11/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	35
37	11/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	12/06/2006	DATE FORWARDED TO EXAMINER			
35	11/22/2006	RESPONSE AFTER NON-FINAL ACTION		95	33
34	11/22/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	05/19/2006	MAIL NON-FINAL REJECTION	66		30
32	05/15/2006	NON-FINAL REJECTION			
31	05/15/2006	DATE FORWARDED TO EXAMINER			
30	11/14/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
29	08/02/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	11/15/2005	PRELIMINARY AMENDMENT			
27	10/14/2005	MAIL RESTRICTION REQUIREMENT	280		-1
26	10/12/2005	REQUIREMENT FOR RESTRICTION / ELECTION			

25	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
24	04/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
23	04/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
22	10/15/2004	CORRESPONDENCE ADDRESS CHANGE			
21.7	08/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	08/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	05/04/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	05/04/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	04/26/2004	APPLICATION RETURN FROM OIPE			
17	04/26/2004	APPLICATION RETURN TO OIPE			
16	04/26/2004	APPLICATION DISPATCHED FROM OIPE			
15	04/26/2004	APPLICATION IS NOW COMPLETE			
14	11/07/2003	CLAIM PRELIMINARY AMENDMENT			
13	04/12/2004	ADDITIONAL APPLICATION FILING FEES			
12	04/12/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	02/04/2004	CLEARED BY L&R (LARS)			
6	01/29/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
5	01/29/2004	CASE CLASSIFIED BY OIPE			
4	11/24/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	11/24/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	11/07/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	11/07/2003	INITIAL EXAM TEAM NN			

Search Another: **Application#**

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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1900 MARKET STREET
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MAR 31 2008

OFFICE OF PETITIONS

In re Patent No. 7,244,832 : DECISION ON REQUEST
Adair et al. : FOR RECONSIDERATION OF
Issue Date: July 17, 2007 : PATENT TERM ADJUSTMENT
Application No. 10/703,963 :
Filed: November 7, 2003 :
Atty Docket No. CARP0001-107 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed September 17, 2007. Patentees request that the Patent Term Adjustment indicated in the Issue Notification and on the face of the patent be corrected from five hundred twenty-six (526) days to five hundred sixty-seven (567) days.

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

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

On July 17, 2007, the above-identified application matured into U.S. Patent No. 7,244,832. The instant request for reconsideration filed September 17, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 526 days. Patentees dispute the reduction of 41 days associated with the filing of a "miscellaneous incoming letter" received in the Office on June 7, 2007.

Patentees' arguments have been considered, but not found persuasive. A review of the record confirms that the paper filed June 7, 2007 was a COMMUNICATION REGARDING PATENT TERM

ADJUSTMENT. It was not a COMMENT ON THE REASONS FOR ALLOWANCE and it did not set forth any omission in the Notice of Allowance. Moreover, it was not a submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment). Rather, it was a miscellaneous letter concerning patent term adjustment. As stated in MPEP 2732:

Thus, while submission of an application for patent term adjustment under 37 CFR 1.705(b) (regardless of whether it contains a request under 37 CFR 1.705(c) for reinstatement of reduced patent term adjustment) will interfere with the patent printing process, submission of the application will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under 37 CFR 1.704(c)(10). Other papers concerning patent term adjustment (e.g., status letters, untimely applications for patent term adjustment, requests for reconsideration of the Office's decisions on applications for patent term adjustment, petitions under 37 CFR 1.181, 1.182, or 1.183 concerning patent term adjustment, or miscellaneous letters concerning patent term adjustment), however, will be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under 37 CFR 1.704(c)(10).

It is concluded that entry of the reduction of 41 days for applicant delay is warranted.

In view thereof, the patent term adjustment indicated on the patent of five hundred twenty-six (526) days is correct.

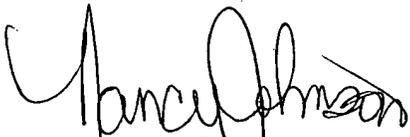
The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

It is further noted that the filing of the paper on June 7, 2007 was unnecessary. Patentees are reminded that the filing of a terminal disclaimer has no effect on the determination of patent term adjustment set forth on any patent issuing from this application. 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.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



MARC E. HANKIN, ESQ.
11414 THURSTON CIRCLE
LOS ANGELES, CA 90049

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JAN 3 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Alan Morse, et al.	:	
Application No. 10/703,995	:	ON PETITION
Filed: November 7, 2003	:	
Attorney Docket No. DYNM 1013770	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 24, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely maker to the non-final Office action mailed, January 10, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 11, 2008.

It is initially pointed out that the petition is found to be filed by a registered patent attorney; however, the petition does not set forth petitioner’s registration number.

37 CFR 1.34 states:

“When a patent practitioner acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party on whose behalf he or she acts. In filing such a paper, the patent practitioner must set forth his or her registration number, his or her name and signature. Further proof of authority to act in a representative capacity may be required.”

Further 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); 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. Where there is a

question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

It is noted that petitioner states that the entire delay in filing the required reply from the due date of the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. However, the statement presented within the petition is unacceptable until petitioner meets the requirement set forth above and provides a valid registration number on the petition and the reply.

37 CFR 1.137(c) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. Since the application is not a utility or plant application filed on or before June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer filed with the instant petition is unnecessary.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$555 extension of time fee submitted with the petition on November 24, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

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

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

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

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

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

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

A handwritten signature in cursive script that reads "April M. Wise".

April M. Wise
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MARC E. HANKIN, ESQ.
11414 THURSTON CIRCLE
LOS ANGELES CA 90049

MAILED

MAR 13 2009

OFFICE OF PETITIONS

In re Application of :
Alan Morse, et al. :
Application No. 10/703,995 : DECISION ON PETITION
Filed: November 7, 2003 :
Attorney Docket No. DYNM 1013770 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 10, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$810, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

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

This application is being referred to Technology Center AU 2614 for appropriate action by the Examiner in the normal course of business on the reply received February 4, 2009


April M. Wise
Petitions Examiner
Office of Petitions



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

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AUG 29 2007

OFFICE OF PETITIONS

In re Application of :
Tamatina et al. :
Application No. 10/704030 : DECISION ON APPLICATION
Filing or 371(c) Date: 11/07/2003 : FOR PATENT TERM ADJUSTMENT
Attorney Docket Number: :
14539-004008 :

This is a decision on the "Petition for Patent Term Adjustment Under 37 CFR 1.705(B)," filed May 4, 2007. This matter is being properly treated under 37 CFR 1.705(b) as a timely filed application for patent term adjustment. Applicant requests that the patent term adjustment at the time of the mailing of the notice of allowance be corrected from three hundred twenty-two (322) days to at least three hundred eighty-two (382) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is five hundred one (501) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 19, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 322 days.

On May 4, 2007, applicant timely submitted the instant application for patent term adjustment¹. Applicant requests that the Determination of Patent Term Adjustment be corrected from 322 days, as indicated on the Determination of PTA mailed March 19, 2006, to an adjustment of at least 382 days. In support of this request, applicant asserts that the Office communication, mailed by this Office on January 20, 2006, was mailed to an incorrect mailing address. The Office communication was subsequently mailed to a correct mailing address on May 23, 2006, and the period of response to the Office communication was reset accordingly. Applicant asserts

¹ PALM records show that the Issue Fee payment was received in the Office on May 4, 2007.

that a timely response to the Office communication was filed on June 23, 2006. As such, there should not be an entry of a period of reduction for applicant delay.

The circumstances of the mailing of the Notice have been considered. The January 20, 2006 Office communication was erroneously mailed to an incorrect correspondence address - due to Office error. The Office action was re-mailed on May 23, 2006, and the period for reply restarted. Applicant's reply was filed on June 23, 2006, which was within the three-month period provided for in 37 CFR 1.704(b). Accordingly, there was no applicant delay. There is no other basis for entry of a period of reduction for applicant delay. Thus, the total period of Applicant delay is zero (0) days.

Under the circumstances, the calculation of Office delay in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1), for taking in excess of fourteen months to mail a first Office action, is properly calculated using the mailing date of the Office action on May 23, 2006. Accordingly, an adjustment of 501 days is properly attributed to the Office for the period beginning on January 8, 2005, the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) and ending on May 23, 2006, the date of mailing of an action under 35 U.S.C. 132. There is no other basis for entry of a period of adjustment for Office delay. Thus the total period of delay is five hundred one (501) days.

In view thereof, the correct patent term adjustment (PTA) at the time of allowance is five hundred one (501) days

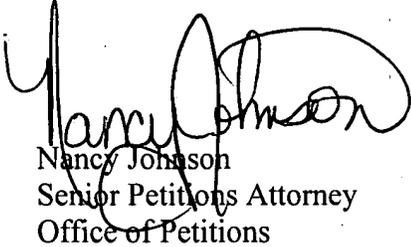
35 U.S.C. 154(b)(3) provides for the Office to establish procedures for the application for and determination of patent term adjustment under 35 U.S.C. 154(b). The Office will provide an initial determination of the patent term adjustment in the notice of allowance. If, however, an applicant wishes to request reconsideration of the initial determination in the notice of allowance, the applicant must file an application for patent term adjustment. 35 U.S.C. 41(d) authorizes the Office to establish a fee to recover the estimated average cost of treating applications for patent term adjustment (as well as a fee for treating a request for reinstatement of patent term adjustment), and the cost of treating an application for patent term adjustment is about the same regardless of whether the Office's initial determination of patent term adjustment indicated in the notice of allowance is correct. In any event, refunding the fee under § 1.18(e) when the application for patent term adjustment is correct would: (1) require the Office to raise the fee set forth in § 1.18(e) (to enable the Office to recover the same aggregate amount); and (2) add further complication to a review process that must take place in a limited period of time.

Applicant's deposit account has been charged the petition fee of \$200.00 as authorized in the present petition.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to

issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Calculations

Day : Tuesday
Date : 8/28/2007

PALM INTRANET

Time : 20:24:06

PTA Calculations for Application: 10/704030

Application Filing Date:	11/07/2003	PTO Delay (PTO):	382
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	60
Post-Issue Petitions:	0	Total PTA (days):	501
PTO Delay Adjustment:	179		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
71	08/28/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	60		
70	08/28/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		382	
69	08/28/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	501		
60	03/19/2007	MAIL NOTICE OF ALLOWANCE			
59	03/15/2007	ISSUE REVISION COMPLETED			
58	03/15/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
57	03/15/2007	NOTICE OF ALLOWABILITY			
56	03/07/2007	PARALEGAL TD ACCEPTED			
55	02/28/2007	TERMINAL DISCLAIMER FILED		0	53
54	03/02/2007	DATE FORWARDED TO EXAMINER			
53	02/28/2007	AMENDMENT AFTER FINAL REJECTION			
52	02/02/2007	MAIL FINAL REJECTION (PTOL - 326)			
51	01/29/2007	FINAL REJECTION			
50	01/26/2007	PARALEGAL TD ACCEPTED			
49	01/26/2007	PARALEGAL TD ACCEPTED			
48	11/28/2006	PARALEGAL TD NOT ACCEPTED			
47	11/20/2006	TERMINAL DISCLAIMER FEE PAID			
46	11/20/2006	TERMINAL DISCLAIMER FEE PAID			
45	11/20/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
44	11/27/2006	DATE FORWARDED TO EXAMINER			
43	11/20/2006	RESPONSE AFTER NON-FINAL ACTION			
42	08/31/2006	MAIL NON-FINAL REJECTION			
41	08/30/2006	NON-FINAL REJECTION			
40	03/15/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

39	11/07/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	06/23/2006	DATE FORWARDED TO EXAMINER			
37	06/23/2006	RESPONSE TO ELECTION / RESTRICTION FILED		60	27
36	05/23/2006	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
35	05/23/2006	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
34	05/23/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
32	05/10/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
30	05/17/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
29	05/17/2006	RESTART RESPONSE OF ACTION			
28	05/17/2006	CORRESPONDENCE ADDRESS CHANGE			
27	01/24/2006	MAIL RESTRICTION REQUIREMENT	382		-1
26	01/20/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
25	09/07/2005	PRELIMINARY AMENDMENT			
24	07/29/2004	CASE DOCKETED TO EXAMINER IN GAU			
23	05/05/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	05/03/2004	REFERENCE CAPTURE ON IDS			
21	03/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	11/07/2003	PRELIMINARY AMENDMENT			
19	11/07/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	04/22/2004	CASE DOCKETED TO EXAMINER IN GAU			
17	04/21/2004	APPLICATION RETURN FROM OIPE			
16	04/21/2004	APPLICATION RETURN TO OIPE			
15	04/21/2004	APPLICATION RETURN FROM OIPE			
14	04/21/2004	APPLICATION IS NOW COMPLETE			
13	04/21/2004	APPLICATION RETURN TO OIPE			
12	04/21/2004	APPLICATION RETURN FROM OIPE			
11	04/21/2004	APPLICATION IS NOW COMPLETE			
10	03/17/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
9	03/17/2004	APPLICATION RETURN TO OIPE			
8	03/16/2004	APPLICATION DISPATCHED FROM OIPE			
7	03/16/2004	APPLICATION IS NOW COMPLETE			

6	02/23/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	11/07/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
4	01/29/2004	CASE CLASSIFIED BY OIPE			
3	01/29/2004	CLEARED BY OIPE CSR			
2	12/10/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/07/2003	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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JUN 30 2009

OFFICE OF PETITIONS

In re Patent No. 7,279,560	:	
Tamatani et al.	:	
Issue Date: October 9, 2007	:	
Application No. 10/704,030	:	DECISION ON REQUEST FOR
Filed: November 7, 2003	:	RECONSIDERATION OF
Attorney Docket No. 14539-004008	:	PATENT TERM ADJUSTMENT
Title: ANTIBODIES SPECIFIC FOR	:	
A CELL SURFACE MOLECULE	:	
MEDIATING CELL ADHESION AND	:	
SIGNAL TRANSMISSION, CELLS	:	
SECRETING SUCH ANTIBODIES, AND	:	
METHODS OF MAKING AND USING	:	
SUCH ANTIBODIES	:	

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office waive the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d), all of which were filed on January 22, 2009.

The petition under 37 CFR 1.183 is dismissed.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is dismissed as untimely filed.

BACKGROUND

On October 9, 2007, the above-identified application matured into U.S. Patent No. 7,279,560, with a patent term adjustment of 536 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee makes this request, in view of the recent decision in *Wyeth v. Dudas*, No. 07-1492 (D.D.C. Sept. 30, 2008).

**ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)**

The above-referenced patent issued on October 9, 2007. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until January 22, 2009. Petitioner requests that the Office waive the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (emphasis added).*

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that

no such request for reconsideration was filed by December 9, 2007, the date two months from the date this patent issued, July 8, 2008. Rather, on January 22, 2009, over three months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

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. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Preliminarily, it is recognized that the two-month requirement of 37 CFR 1.705(d) is a requirement of the regulations and not a statutory requirement. The statute, 35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director. But, the statute allows the Director to establish the procedures for requesting such reconsideration. Those procedures¹ include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the

¹ 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b) (37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e) (37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

revised patent term adjustment indicated in the patent. As such, it is within the Director's authority to waive the two-month requirement.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is the ruling made by the court in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008). Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days." Petitioner argues that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

First, of all, the issuance of the Wyeth Opinion is not an extraordinary situation. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A)², Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument

² 35 U.S.C. 154(b)(4)(A) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION. - (A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not compelling. Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

Moreover, justice does not require waiver of the two-month requirement. Justice requires that the Office continue to devote its resources to the adjudication of timely filed requests for reconsideration under 37 CFR 1.705(b) and (d). Further, upon ultimate resolution of the interpretation of 37 CFR 1.702, justice requires that the Office determine consistent with relevant law and practice, and appropriate Court or legislative guidance, the applicability of any changes as to all affected patentees who failed to timely seek administrative remedy, and thus, could not seek judicial review.

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is dismissed.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

**ON REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)**

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed January 22, 2009. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to five hundred thirty-six (536) days.

On October 9, 2007, the above-identified application matured into U.S. Patent No. 7,279,560 with a revised patent term adjustment of 536 days. The instant request for reconsideration was filed over one year after the issuance of the patent, on October 9, 2007.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed.**

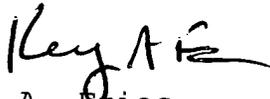
CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

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 specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.



Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

Cc: Fish & Richardson PC
Citigroup Center
52nd Floor
153 East 53rd Street
New York, NY 10022-4611

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Takuya Tamatani et al. Art Unit : 1644
Patent No. : 7,279,560 Examiner : Ilia I. Ouspenski
Issue Date : October 9, 2007 Conf. No. : 3137
Serial No. : 10/704,030
Filed : November 7, 2003
Title : ANTIBODY FRAGMENTS TO JTT-1 PROTEIN AND CELLS SECRETING
SUCH ANTIBODY FRAGMENTS

Mail Stop Petitions

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

PETITION UNDER 37 C.F.R. § 1.183
FOR SUSPENSION OF THE REQUIREMENTS OF 37 C.F.R. § 1.705(d) AND (e)

Patentee hereby petitions the Commissioner under 37 C.F.R. § 1.183 for a suspension of 37 C.F.R. §§ 1.705(d) and (e) and for acceptance of the "Application For Patent Term Adjustment Under 37 C.F.R. § 1.705(d)" filed with this petition, to correct an erroneous patent term adjustment calculation. 37 C.F.R. §§ 1.705(d) and (e) provide that an application for patent term adjustment must be filed within two months after patent issuance and that the period is not extendable.

At the time of issuance of the above patent, the U.S. Patent and Trademark Office's ("the Office's") published interpretation¹ of the statute and regulations governing patent term adjustment unambiguously supported the Office's patent term adjustment calculation for the patent. In reliance on the Office's interpretation, as published in the Federal Register, Patentee did not challenge the Office's final patent term adjustment calculation. However, on September 30, 2008, the U.S. District Court for the District of Columbia issued an opinion in Wyeth et al. v. Jon W. Dudas (U.S. District Court, D.C., CA No. 07-1492, Mem. Op. September 30, 2008) finding that a critical aspect of the Office's published method for calculating the patent term adjustment is in error. The court's holding that the Office's

¹ "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)," published on June 21, 2004 at 69 Fed. Reg. 34283-84.

CERTIFICATE OF MAILING BY EFS-WEB FILING

I hereby certify that this paper was filed with the Patent and Trademark Office using the EFS-WEB system on this date: January 22, 2009

Applicant : Takuya Tamatani et al.
Patent No. : 7,279,560
Issued : October 9, 2007
Serial No. : 10/704,030
Filed : November 7, 2003
Page : 2 of 3

Attorney's Docket No.: 14539-0004008 / JF-0052US-C2

interpretation of the statute and regulations governing patent term adjustment is in error occurred more than two months after the present patent issued. As a result, petitioner could not have reasonably presented a request for reconsideration of the patent term adjustment within the time period specified under 37 C.F.R. § 1.705(d).

37 C.F.R. §1.183 provides that “[i]n an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived ...” The present case presents a rare instance where the Office’s published interpretation of a statute and corresponding regulations has been overturned by the courts. In such an exceptional case, it would be manifestly unjust to punish those who made an earnest attempt to comply with the laws and regulations as interpreted by the Office. Furthermore, the time period specified under 37 C.F.R. § 1.705(d) is not a requirement of the statutes and is therefore eligible for suspension under 37 C.F.R. §1.183.

As detailed in the enclosed application for patent term adjustment, if this petition is not granted then the patent will have a term that is shorter than that to which it is legally entitled, seriously prejudicing Patentee in fully enforcing its statutory patent rights. In view of Patentee’s reliance on the Office’s published interpretation of the patent term adjustment statute and regulations, and in the interests of fundamental fairness, Patentee respectfully requests that the time limit for consideration of an application for patent term adjustment be suspended so as to permit reconsideration according to the rule established by the court in Wyeth v. Dudas.

Applicant : Takuya Tamatani et al.
Patent No. : 7,279,560
Issued : October 9, 2007
Serial No. : 10/704,030
Filed : November 7, 2003
Page : 3 of 3

Attorney's Docket No.: 14539-0004008 / JF-0052US-C2

The petition fee required by 37 C.F.R. § 1.17(f) in the amount of \$400 is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 14539-0004008.

Respectfully submitted,

Date: January 22, 2009

/Jack Brennan/
Jack Brennan
Reg. No. 47,443

Fish & Richardson P.C.
Citigroup Center
52nd Floor
153 East 53rd Street
New York, New York 10022-4611
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RALEIGH NC 27612**

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OFFICE OF PETITIONS

In re Application of :
Ich-Kien Lao et al :
Application No. 10/704,046 : DECISION ON PETITION
Filed: November 7, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. INTG.10003 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 27, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

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 instant pending nonprovisional application was filed on November 7, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/319,686, which was filed on November 11, 2002, and 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.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. 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 amendment¹ deleting the incorporation by reference statement, 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

¹ Note 37 CFR 1.121

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

By fax: (703) 872-9306
 ATTN: Office of Petitions

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



Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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OFFICE OF PETITIONS

**HUTCHISON & MASON
P.O. BOX 31686
RALEIGH, NC 27612**

In re Application of :
Ich-Kien et al :
Application No. 10/704,046 : DECISION ON PETITION
Filed: November 7, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. INTG.03-02 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed July 5, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/319,686, which was filed on November 11, 2002, for which priority is claimed.

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

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

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

Any inquiries concerning this decision may be directed to 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 2614 for appropriate action on the amendment submitted July 5, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/319,686, filed November 11, 2002.


Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt



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AUG 05 2009

OFFICE OF PETITIONS

In re Patent No. 7,226,909 :
Tamatani et al. : ON PETITIONS
Application No. 10/704,056 : under 37 CFR 1.183
Issue Date: June 5, 2007 : and
Filed: November 7, 2003 : ON REQUEST FOR RECONSIDERATION
Attorney Docket No. : OF PATENT TERM ADJUSTMENT
14539-004010 :

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits an Application for Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Application for Patent Term Adjustment, both filed on January 22, 2009.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On June 5, 2007, the above-identified application matured into U.S. Patent No. 7,226,909 with a revised patent term adjustment of 484 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that an Application for Patent Term Adjustment

be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

**ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)**

The above-referenced patent issued on June 5, 2007. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until January 22, 2009. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis added*).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by August 5, 2007, the date two months from the date this patent issued, June 5, 2007. Rather, on January 22, 2009, nearly four (4) months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

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. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures¹ include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is "the extraordinary situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)." Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO

¹ 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b) (37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e) (37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days."

Petitioner has not explained why it could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered over one year after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than one month after the issuance of their patent, is not persuasive.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they

taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained one year and five and one-half month delay in filing the petition weighs against them.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and 37 CFR 1.323 or 35 U.S.C. 255 and 37 CFR 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in §1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in §1.705(d). See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is dismissed.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

**ON REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)**

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed January 22, 2009. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to five hundred ninety-one (591) days.

On June 5, 2007, the above-identified application matured into U.S. Patent No. 7,226,909 with a revised patent term adjustment of 484 days. The instant request for reconsideration was filed over one year after the issuance of the patent, on January 22, 2009.

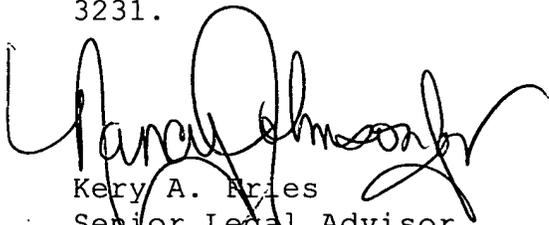
No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.



Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



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OFFICE OF PETITIONS

In re Patent No. 7,226,909 : ON PETITION
Tamatani et al. : UNDER 37 CFR 1.183
Issue Date: 06/05/2007 : and
Application No. 10/704,056 : ON APPLICATION FOR
Filed: 11/07/2003 : PATENT TERM ADJUSTMENT
Attorney Docket No. 14539-004010 :

This is a decision on the "Response to Decision on Petition Under 37 C.F.R. § 1.183 and on Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(d)," filed October 2, 2009, requesting suspension of the time limit for consideration of an application for patent term adjustment ("PTA"). The response is properly treated as a request for reconsideration of petition under 37 CFR 1.183.

This petition is hereby **DENIED**. This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. *See*, MPEP 1002.02.

Your petition requesting suspension of the time limit for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,226,909 is denied. On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of a PTA determination under 37 CFR sec. 1.705(d). *See, Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth v. Kappos Regarding Overlapping Delay Provisions of 35 U.S.C. sec. 154(b)(2)(A)*, 75 Fed. Reg. 5043 (Feb. 1, 2010) (notice).

Specifically, patent owners were permitted to request recalculation of a patent's PTA in view of the Federal Circuit decision *Wyeth v. Kappos*, 591 F.3d 1364 (Fed. Cir. 2010), up to 180 days after the grant of the patent. The USPTO determined not to accept requests for PTA recalculation more than 180 days after patent grant, however, in view of the statutory judicial-review provisions of 35 U.S.C. sec. 154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant. The USPTO believes that the statutory 180-day period for seeking court review of the USPTO's PTA determinations,

particularly in view of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be resolved shortly after a patent issues. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek USPTO review of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. sec. 154(b)(4) represents the outer limit on the USPTO's ability to conclude its PTA determination.

The present renewed petition under 37 CFR 1.183 is granted to the extent that the decision of August 4, 2009 has been reconsidered; however, the renewed petition requesting suspension of the time limit for consideration of an application for patent term adjustment under 37 CFR 1.183 is **DENIED**.

This patent file is being referred to the Files Repository.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.



Anthony Knight
Director
Office of Petitions



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MAR 31 2008

OFFICE OF PETITIONS

In re Patent No. 7,244,615 : DECISION ON REQUEST
Adair et al. : FOR RECONSIDERATION OF
Issue Date: July 17, 2007 : PATENT TERM ADJUSTMENT
Application No. 10/704,071 :
Filed: November 7, 2003 :
Atty Docket No. CARP0001-108 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed September 17, 2007. Patentees request that the Patent Term Adjustment indicated in the Issue Notification and on the face of the patent be corrected from five hundred forty-three (543) days to five hundred sixty-seven (567) days.

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

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

On July 17, 2007, the above-identified application matured into U.S. Patent No. 7,244,615. The instant request for reconsideration filed September 17, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 543 days. Patentees dispute reduction of 41 and 28 days associated with the filing of two "miscellaneous incoming letter" received in the Office on June 7, 2007 and May 10, 2007 respectively.

Patentees' arguments have been considered, but not found persuasive. A review of the record confirms that the paper filed June 7, 2007 was a COMMUNICATION REGARDING PATENT TERM

ADJUSTMENT. It was not a COMMENT ON THE REASONS FOR ALLOWANCE and it did not set forth any omission in the Notice of Allowance. Moreover, it was not a submission of an application for patent term adjustment under § 1.705(b) (with or without request under §1.705(c) for reinstatement of reduced patent term adjustment). Rather, it was a miscellaneous letter concerning patent term adjustment. As stated in MPEP 2732:

Thus, while submission of an application for patent term adjustment under 37 CFR 1.705(b) (regardless of whether it contains a request under 37 CFR 1.705(c) for reinstatement of reduced patent term adjustment) will interfere with the patent printing process, submission of the application will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under 37 CFR 1.704(c)(10). Other papers concerning patent term adjustment (e.g., status letters, untimely applications for patent term adjustment, requests for reconsideration of the Office's decisions on applications for patent term adjustment, petitions under 37 CFR 1.181, 1.182, or 1.183 concerning patent term adjustment, or miscellaneous letters concerning patent term adjustment), however, will be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under 37 CFR 1.704(c)(10).

It is concluded that entry of the reduction of 41 days for applicant delay is warranted.

Likewise, the paper filed May 10, 2007 was a COMMUNICATION CONCERNING ACCEPTANCE OF FORMAL DRAWINGS and not a COMMENT ON THE REASONS FOR ALLOWANCE. 17 sheets of drawings were acknowledged by filing receipt mailed June 3, 2004. The Notice of Allowability did not require corrected drawings. Moreover, there was no omission in either of the Notice of Allowance or Notice of Allowability necessitating the filing of this paper. See MPEP 507 and 608.02(b). Further, unlike § 1.704(c)(8), § 1.704(c)(10) does not exempt papers filed at the request of the examiner. Thus, it is concluded that the paper filed May 10, 2007 was a paper filed after the mailing of the notice of allowance which the filing of constituted a "failure to engage" within the meaning of 37 CFR 1.704(c)(10).

The entry of the reduction of 28 days (considering the period of overlap with the reduction for the paper filed June 7, 2007) for applicant delay is warranted.

In view thereof, the patent term adjustment indicated on the patent of five hundred forty-three (543) days is correct.

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

It is further noted that the filing of the paper on June 7, 2007 was unnecessary. Patentees are reminded that the filing of a terminal disclaimer has no effect on the determination of patent term adjustment set forth on any patent issuing from this application. 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.

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



Nancy Johnson
Senior Petitions Attorney
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AUG 18 2009

OFFICE OF PETITIONS

In re Patent No. 7,217,792 : ON PETITION
Tamatani et al. : UNDER 37 CFR 1.183
Issue Date: 05/15/2007 : and
Application No. 10/704072 : ON REQUEST FOR RECONSIDERATION
Filed: 11/07/2003 : OF PATENT TERM ADJUSTMENT
Attorney Docket No. 14539-004009 :

This is a decision on the 1) Petition under 37 C.F.R. 1.183 for Suspension of the Requirements of 37 C.F.R. 1.705(d) and (e), requesting that the Office suspend the rules and consider on the merits an Application for Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Application for Patent Term Adjustment under 37 C.F.R. 1.705(d), requesting reconsideration of the Patent Term Adjustment, both of which were filed on January 22, 2009.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On May 15, 2007, the above-identified application matured into U.S. Patent No. 7,217,792, with a revised patent term adjustment of 419 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for

Reconsideration of Patent Term Adjustment. Patentee makes this request “so as to permit reconsideration according to the rule established by the court in *Wyeth v. Dudas*.”

**ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)**

The above-referenced patent issued on May 15, 2007. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until January 22, 2009. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis added*).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by July 15, 2007, the date two months from the date this patent issued, May 15, 2007. Rather, on January 22, 2009, nearly four months after the issuance of a decision in *Wyeth v. Dudas* on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

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. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the

Director to establish the procedures for requesting such reconsideration. Those procedures¹ include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is "the extraordinary situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)." Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days." Petitioner argues that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent. Further, petitioner argues that waiver is warranted as although the request for reconsideration is being filed outside of the two-month period, in view of Patentee's reliance on the Office's published interpretation of the patent term adjustment statute and regulations, and in the interest of fundamental fairness, Patentee requests suspension of the time limit consideration of an application for patent term adjustment.

Petitioner has not explained why it could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered nearly two months after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in

¹ 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued. Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered nearly two months after the issuance of their patent, is not persuasive.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained more than 20-month delay in filing the petition weighs against them.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and 37 CFR 1.323 or 35 U.S.C. 255 and 37 CFR 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in § 1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in § 1.705(d). See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Application for Patent Term Adjustment under 37 CFR 1.705(d).

**ON REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)**

This is a decision on the “APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d),” filed January 22, 2009. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to 608 days.

On May 15, 2007, the above-identified application matured into U.S. Patent No. 7,217,792 with a revised patent term adjustment of 419 days. The instant request for reconsideration was filed more than 20 months after the issuance of the patent, on January 22, 2009.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office’s determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office’s determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that “any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section.” Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed.**

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

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. Applicant is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

Telephone inquiries specific to this matter should be directed to Derek Woods, Attorney, Office of Petitions, at (571) 272-3232.



Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: FISH & RICHARDSON, P.C.
CITIGROUP CENTER
52nd FLOOR
153 EAST 53rd STREET
NEW YORK, NY 10022-4611



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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,217,792 : ON PETITION
Tamatani et al. : UNDER 37 CFR 1.183
Issue Date: 05/15/2007 : and
Application No. 10/704072 : ON APPLICATION FOR
Filed: 11/07/2003 : PATENT TERM ADJUSTMENT
Attorney Docket No. 14539-004009 :

This is a decision on the "Response to Decision on Petition Under 37 C.F.R. § 1.183 and on Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(d)," filed October 15, 2009, requesting suspension of the time limit for consideration of an application for patent term adjustment ("PTA"). The response is properly treated as a request for reconsideration of petition under 37 CFR 1.183.

This petition is hereby **DENIED**. This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. *See*, MPEP 1002.02.

Your petition requesting suspension of the time limit for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,217,792 is denied. On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of a PTA determination under 37 CFR sec. 1:705(d). *See*, *Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth v. Kappos Regarding Overlapping Delay Provisions of 35 U.S.C. sec. 154(b)(2)(A)*, 75 Fed. Reg. 5043 (Feb. 1, 2010) (notice).

Specifically, patent owners were permitted to request recalculation of a patent's PTA in view of the Federal Circuit decision *Wyeth v. Kappos*, 591 F.3d 1364 (Fed. Cir. 2010), up to 180 days after the grant of the patent. The USPTO determined not to accept requests for PTA recalculation more than 180 days after patent grant, however, in view of the statutory judicial-review provisions of 35 U.S.C. sec. 154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant. The USPTO believes that the statutory 180-day period for seeking court review of the USPTO's PTA determinations,

particularly in view of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be resolved shortly after a patent issues. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek USPTO review of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. sec. 154(b)(4) represents the outer limit on the USPTO's ability to conclude its PTA determination.

The present renewed petition under 37 CFR 1.183 is granted to the extent that the decision of July 16, 2009 has been reconsidered; however, the renewed petition requesting suspension of the time limit for consideration of an application for patent term adjustment under 37 CFR 1.183 is **DENIED**.

This patent file is being referred to the Files Repository.

Telephone inquiries specific to this matter should be directed to Derek Woods, Attorney, Office of Petitions, at (571) 272-3232.



Anthony Knight
Director
Office of Petitions



Commissioner for Patents
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150 GLOVER AVENUE
NORWALK, CT 06856

In re Application of: :
Andrew J. MACKENZIE et al. :
Application No. 10/704,073 : DECISION ON PETITION
Filed: November 5, 2003 :
Attorney Docket No. 2748 CIP DIV :

This is a decision on the petition under 37 CFR 1.137(b), filed February 19, 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 December 21, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 22, 2008.

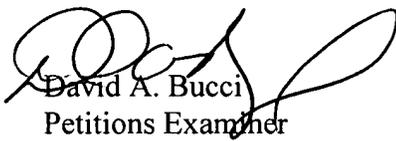
The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of a continuing application No. 12/136,994, filed June 11, 2008.

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

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Shahid Alam at (571) 272-6052 or in his absence to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3731 for appropriate action on the concurrently filed amendment.

A handwritten signature in black ink, appearing to read 'David A. Bucci', is written over the typed name and title.

David A. Bucci
Petitions Examiner
Office of Petitions

CC:
Michael J. Debono
Carter, DeLuca, Farrell & Schmidt, LLP\
445 Broad Hollow Road
Melville, NY 11747



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MAR 25 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
HaiYan Zhou :
Application No. 10/704,093 :
Filed: November 7, 2003 :
Attorney Docket No. USP2197C-DRSZ :

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed February 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 April 12, 2004.

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

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

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

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

cc: Raymond Y. Chan
108 N. Ynez Ave., #128
Monterey Park, CA 91754



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APR 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Haiyan Zhou	:	
Application No. 10/704,093	:	ON PETITION
Filed: November 7, 2003	:	
Attorney Docket No. USP2197C-DRSZ	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 16, 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) was obtained. Accordingly, the application became abandoned on December 17, 2005.

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

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

The application file is being referred to Technology Center AU 2841 for appropriate action the concurrently filed amendment.

Liana Walsh
Office of Petitions
Office of Petitions



THEMI ANAGNOS
TERMAX CORPORATION
920 REMINGTON AVENUE
SCHAUMBURG, ILLINOIS 60173

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OCT 20 2005

OFFICE OF PETITIONS

In re Application of :
Daniel James Dickinson et al. :
Application No. 10/704,094 : DECISION ON PETITION
Filed: November 7, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. TE9D2 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 12, 2003, 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**.

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 satisfy items (1) and (3) above.

With respect to item (1), a reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since: (1) it improperly incorporates by reference the prior-filed provisional applications; (2) it improperly claims priority to co-pending divisional application 10/704,481; and (3) it improperly identifies the number of applications being claimed for priority.

With respect to the referenced provisional applications, only the parent application 10/164,963 filed June 7, 2002 can properly claim priority to the provisional applications, as this is the only case filed within twelve months of the prior provisional applications. With respect to the co-pending divisional application 10/704,481, filed November 7, 2003, since this application was filed on the same day, it cannot be relied upon for priority. With respect to the number of applications being referenced in the amendment, petitioner's counsel refers to four applications based on priority of the filed provisional applications, and also references seven applications being incorporated by reference, but only lists three applications based on priority of the provisional applications, and further, only lists six total applications.

The petitioner can only amend the statement of priority with inclusion of parent application 10/164,963, as this is the only application referenced in the originally filed application, as verified on the Transmittal Form filed November 7, 2003. Copending application 10/704,481 should not be incorporated into the statement of priority being filed, as it is not prior-filed, and cannot be relied upon for priority. The referenced co-pending application can be listed in a separate amendment, and singularly referenced as a related application. Finally, the petitioner must have a direct relationship to the applications referenced for priority; the phrase "all of which are based on priority" is unacceptable, particularly when only the parent application fulfills the statement.

The following is a suggested statement for petitioner's consideration:

--This is a divisional application of non-provisional application no. 10/164,963, filed June 7, 2002, now U.S. Patent 6,718,599, which is incorporated by reference, which claims priority to provisional applications 60/301,364, filed June 25, 2001, 60/327,814, filed October 9, 2001, and 60/353,515, filed February 1, 2002.—

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).*

With respect to item (3), 37 CFR 1.78(a)(3) requires a statement that “the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional” be submitted.

Before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition and a substitute amendment to correct the above matters is required.

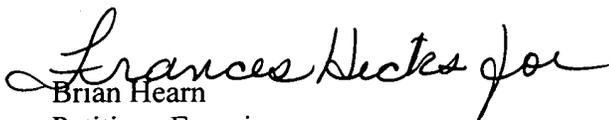
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

Any inquiries concerning this decision may be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.


Brian Hearn
Petitions Examiner
Office of Petitions



E. VASSILIOU
TERMAX CORPORATION
920 REMINGTON ROAD
SCHAUMBERG IL 60173

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DEC 29 2005

OFFICE OF PETITIONS

In re Application of	:
Dickinson et al.	:
Application No. 10/704,094	: DECISION ON PETITION
Filed: November 7, 2003	: UNDER 37 CFR 1.78(a)(3), (a)(6)
Attorney Docket No. TE9D2	:

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 18, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **Granted**.

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

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on and was pending at the time of filing of the instant petition, and further, was itself copending with prior application 10/164,963 ('963) which was filed within one year of the date of filing of all three provisional applications. A reference to the prior-filed non provisional 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) and 1.78(a)(5)(iii).

As noted previously, the prior provisional application was filed within twelve months of provisional Application Nos.: 60/301,364 filed June 25, 2001; No. 60/327,814 filed October 9, 2001; and 60/353,515 filed February 1, 2002, for which priority is claimed. A reference to the

prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the amended 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 365(c) 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 365(c) and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272- 3217.

This application is being referenced to the Technology Center for appropriate action on the amendment submitted , including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.



Brian Hearn
Petitions Examiner

ATTACHMENT : Corrected Filing Receipt



Therni Anagnos
TERMAX CORPORATION
1155 Rose Road
Lake Zurich IL 60047

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SEP 12 2006
OFFICE OF PETITIONS

In re Application of :
Dickinson et al. :
Application No. 10/704,094 : **ON PETITION**
Filed: November 7, 2003 :
Attorney Docket Number: TE9D2 :

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

The petition is **dismissed**.

This above-identified application became abandoned for failure to timely file a complete reply to the final Office Action of June 7, 2005. A Request for Continued Examination (RCE) and amendment were filed on September 12, 2005. A Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on November 21, 2005 no new time limit was set. This application became abandoned on September 8, 2005. A Notice of Abandonment was mailed on June 14, 2006.

The petition has **not** been reviewed on the merits because the petition provided has not been signed.

Pursuant to 37 CFR 1.33, 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 attorney or agent of record appointed in compliance with § 1.34(b);
- (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
- (3) An assignee as provided for under § 3.71(b) of this chapter; or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of



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FEB 20 2007

OFFICE OF PETITIONS

In re Application of
Dickinson et al.
Application No. 10/704,094
Filed: November 7, 2003
Attorney Docket Number: TE9D2

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 13, 2006, to revive the above-identified application.

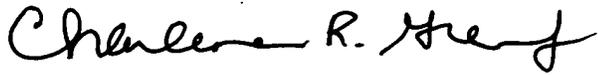
This above-identified application became abandoned for failure to timely file a complete reply to the final Office Action of June 7, 2005. A Request for Continued Examination (RCE) and amendment were filed on September 12, 2005. A Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on November 21, 2005 no new time limit was set. This application became abandoned on September 8, 2005. A Notice of Abandonment was mailed on June 14, 2006. A petition was dismissed on September 12, 2006.

This petition is hereby **Granted**.

A duplicate petition fee was authorized and charged with the renewed petition. Petitioner is entitled to a refund of the duplicate \$750.00 petition fee. Petitioner may request a refund by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application is being forwarded to Technology Center 3600 for further processing

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

A handwritten signature in black ink, appearing to read "Charlema R. Grant". The signature is written in a cursive style with a large initial "C".

Charlema R. Grant
Petitions Attorney
Office of Petitions



TERMAX CORPORATION
CARE OF NORA DEFOREST
1155 ROSE
LAKE ZURICH, IL 60047

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FEB 18 2009

OFFICE OF PETITIONS

In re Application of :
Daniel James Dickinson, et al. :
Application No. 10/704,094 : **DECISION ON PETITION**
Filed: November 7, 2003 :
Attorney Docket No. TE9D2 :

This is a decision on the petitions, filed November 12, 2008, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application and under the unintentional provisions of 37 CFR 1.137(b) to revive the above-identified application.

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

The petition lacks a proper signature and thus will not be further treated on the merits.

This is also a decision on the petition under 37 CFR 1.137(b). The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment, mailed January 11, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$810, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner.

Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

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

This application is being referred to Technology Center AU 3679 for appropriate action by the Examiner in the normal course of business on the reply received November 12, 2008.

/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
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GARLICK, HARRISON & MARKISON (ALU)
P.O. BOX 160727
AUSTIN, TX 78716-0727

Mail Date: 05/03/2010

Applicant : Girish Chiruvolu : DECISION ON REQUEST FOR
Patent Number : 7613184 : RECALCULATION of PATENT
Issue Date : 11/03/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/704,097 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/07/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1165** 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.



HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins CO 80527-2400

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MAY 21 2004

OFFICE OF PETITIONS

In re Application of :
James Farrell, Timothy Fischer, Daniel : DECISION
Leibholz and Bruce Gieseke :
Application No. 10/704,106 :
Filed: November 7, 2003 :
Attorney Docket No. 200304796-2 :
Title of Invention: METHOD AND :
APPARATUS FOR COMPACTING QUEUE :

This is in response to the petition under 37 CFR 1.47(a) filed November 7, 2003.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 09/465,175 filed December 17, 1999, of which the instant filing is a continuation application. Furthermore, a copy of the decision, mailed August 16, 2002, granting a petition to accord § 1.47(a) status to the prior application has been placed in the file of the present application.

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

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions



MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE WI 53202

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DEC 20 2005

OFFICE OF PETITIONS

In re Application of :
Michael Silberberg :
Application No. 10/704,107 :
Filed: November 7, 2003 :
Attorney Docket Number: 043153-9074-01 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of March 24, 2005. 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 June 25, 2005. A Notice of Abandonment was mailed on October 20, 2005.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2800 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



MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

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MAR 19 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
Silberberg
Application No. 10/704,107
Filed: November 7, 2003
Attorney Docket Number: 043153-9074-01
Title of Invention: Parking System For Sending
Messages

This is a decision on the petition filed October 4, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed March 28, 2006. 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 June 29, 2006. A supplemental Notice of Allowance was mailed on July 14, 2006. A Notice of Abandonment was mailed on August 3, 2006.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions



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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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APR 10 2006

OFFICE OF PETITIONS

In re Application of :
Verlee :
Application No. 10/704,114 :
Filed: November 7, 2003 :
For: PROSTHESIS HAVING VARIED :
CONCENTRATION OF BENEFICIAL AGENT :

This is a decision in response to the petition under 37 CFR 1.137(b), filed February 21, 2006, to revive the above-identified application.

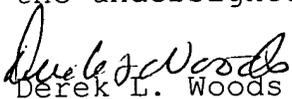
This Petition is hereby granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 24, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on June 25, 2005. A Notice of Abandonment was mailed February 3, 2006.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). A Reply in response to the March 24, 2005, Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 3738 for processing of the Reply/Amendment filed February 21, 2006, in due course.

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


Derek L. Woods
Attorney
Office of Petitions



BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 GATEHOUSE RD, SUITE 500 EAST
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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MAR 10 2009

OFFICE OF PETITIONS

:
: **DECISION**
: **DISMISSING**
: **PETITION**
:
:

Applicant: Buchholz *et al.*
Application No.: 10/704,116
Filed: November 7, 2003
Title: PRODUCTION OF ATTENUATED, HUMAN-
BOVINE CHIMERIC RESPIRATORY
SYNCYTIAL VIRUS VACCINES

This is a decision on the "PETITION UNDER 37 CFR 1.183 TO WAIVE RULE TO PERMIT FILING OF REFERENCES ON COMPACT DISK," filed May 30, 2007 ("the petition"). The petition requests waiver of 37 CFR 1.98(a)(2) to submit, in lieu of paper copies, electronic copies on compact disk of references cited in an information disclosure statement (IDS) filed concurrently with the petition on May 30, 2007.

Petitioner paid by check the petition fee of \$400.00 pursuant to 37 CFR 1.17(f) for the petition under 37 CFR 1.183.

For the reasons set forth herein, the petition is dismissed.

DISCUSSION

37 CFR 1.98(a)(2) provides that any IDS filed under § 1.97 shall include:

A legible copy of:

- (i) Each foreign patent;
- (ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office;
- (iii) For each cited pending unpublished U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and
- (iv) All other information or that portion which caused it to be listed.

37 CFR 1.183 states:

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

The instant petition has been fully considered. 37 CFR 1.98(a)(2) requires legible copies of certain documents listed on an IDS filed under 37 CFR 1.97 be submitted to the Office. Petitioner seeks waiver of this copy requirement for the IDS that was filed concurrently with the petition on May 30, 2007. The provisions of 37 CFR 1.98(a)(2) may be waived under 37 CFR 1.183 where a petitioner demonstrates an extraordinary situation in which justice requires suspension of the rule.

In support of the petition for waiver of 37 CFR 1.98(a)(2), petitioner notes that the IDS includes a large number of documents, several of which are PCT publications of great length. Petitioner submits that:

[D]ue to the number of references submitted and the volume of paper that would be required to comply with 37 CFR 1.98(a)(2) by filing of paper copies of the references, it is in the interest of the USPTO, and of Applicants, for the USPTO to accept the references on Compact Disk. In particular, acceptance of the references on Compact Disk avoids the waste of USPTO resources for scanning of the references for inclusion in the Image File Wrapper of the present application, and avoids the waste of Applicants' resources for printing of paper copies of the references in the first instance.¹

As a general rule, waiver of a rule in the interest of justice is not available when there is recourse within the rules of practice. In this instance, petitioner requests waiver of the rules governing submission of documents to the Office based on the alleged waste of Office and applicant resources if paper copies of a large number of references were submitted to the Office. In lieu of submitting paper copies of the references, however, petitioner may use the web-based Office electronic filing system (EFS-Web) to electronically submit copies of the references to the Office with an IDS (e-IDS).² Using EFS-Web, petitioner may electronically submit copies of the references to the Office in Portable Document Format (PDF), which will avoid wasting applicants' resources as it appears applicant already has copies of each of the references in PDF format.³

¹ Petition at page 2.

² See *Manual of Patent Examining Procedure* § 609.07 (8th ed. 2001) (Rev. 7, July 2008) (providing that “[a]s of May of 2002 IDSs may be submitted to the Office via the EFS” and that “[a]s of January 2007, an e-IDS filed via EFS-Web may include citations of U.S. patents, U.S. patent application publications, foreign patent documents and non-patent literature (NPLs)”).

³ See petition at page 2, item (C) (identifying “a Compact Disk including a .pdf file for each reference”).

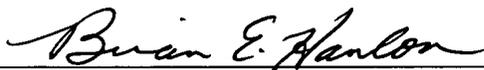
Moreover, EFS-Web can accommodate submission of an e-IDS that contains a listing of a large number of references.⁴ Foreign references and non-patent literature are submitted as separate PDF attachments and are indexed as "Foreign Reference" and "NPL Documents" under the IDS/References category (copies of U.S. patents and patent application publications are not required to be submitted).⁵ Up to sixty files can be uploaded per submission, and the filer may submit any additional electronic files as follow-on documents later on the same day as the initial filing.⁶

Additionally, contrary to petitioner's assertion, it would not be in the Office's interest to accept petitioner's submission of the references on compact disk as the Office presently has no facility for importing such files from compact disk directly into the image file wrapper (IFW) of the instant application.⁷ Rather, the Office would be required to undergo the time-consuming and costly steps of printing out each of the references submitted on compact disk and scanning the printed references into the IFW. Nor is it in applicant's interest for the Office to accept petitioner's submission of the references on compact disk as manual scanning of the references printed from the compact disk increases the potential for error on the part of the Office and would likely reduce the quality of the copies of the references that are entered into the IFW.

Accordingly, for all of the reasons set forth above, petitioner has not presented facts that demonstrate an extraordinary situation in which justice requires suspension of 37 CFR 1.98(a)(2), and the petition is dismissed.

CONCLUSION

The petition is dismissed for the reasons set forth herein, and the application is being forwarded to Technology Center 1600 for further processing. Telephone inquiries regarding this communication should be directed to Nicole Dretar at (571) 272-7717.



Brian Hanlon
Deputy Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

⁴ See *Manual of Patent Examining Procedure* § 609.07 (8th ed. 2001) (Rev. 7, July 2008) (providing that an individual e-IDS may contain a listing of (1) a combined total of 50 U.S. patents and U.S. patent application publications, (2) 50 foreign patent documents, and (3) 50 NPLs, and that more than one e-IDS may be submitted if these numbers are exceeded).

⁵ See *Frequently Asked Questions about EFS-Web*, Question p220efs221, at http://www.uspto.gov/ebc/efs_faq.htm.

⁶ See *Legal Framework for EFS-Web* § XVI (September 2008) at <http://www.uspto.gov/ebc/portal/efs/legal.htm>.

⁷ See *Frequently Asked Questions about EFS-Web*, Question p242efs586, at http://www.uspto.gov/ebc/efs_faq.htm.



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GRAYBEAL JACKSON HALEY, LLP
155 – 108TH AVENUE NE, SUITE 350
BELLEVUE, WA 98004-5901

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AUG 17 2009

OFFICE OF PETITIONS

In re Application of :
Ursula BUCHHOLZ, et al. :
Application No. 10/704,116 : DECISION ON PETITION
Filed: November 7, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **2303-022-06** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 30, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is December 31, 2006.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

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

This application is being referred to Technology Center AU 1648 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.



Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **BIRCH STEWART KOLASCH & BIRCH, LLP**
P.O. BOX 747
FALLS CHURCH, VA 22040-0747



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FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Application of

Ursula BUCHHOLZ, et al.

Application No. 10/704,116

Filed: November 7, 2003

Attorney Docket No. **1173-1044PUSS**

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**DECISION ON PETITION TO
WITHDRAW FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 4, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **BIRCH STEWART KOLASCH & BIRCH, LLP** has been revoked by the assignee of the patent application on January 25, 2010. 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: **WOODCOCK WASHBURN, LLP**
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891



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Knobbe Martens Olson & Bear LLP
2040 Main Street,
Fourteenth Floor
Irvine, CA 92614

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
Ronald J. Judge et al. : **TO MAKE SPECIAL**
Application No. 10/704,177 : **(INFRINGEMENT)**
Filed: November 7, 2003 :
For: CONTROLLER FOR A QUICK
DISCONNECT SLIDE ASSEMBLY

This is a decision on the petition under 37 C.F.R § 1.102(d) filed February 11, 2004 to make the above-identified application special. The delay in acting on this petition is regrettable.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

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

The petition filed February 11, 2003 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed concurrently with the petition.

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

SNM/vdb: 4/29/04



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Knobbe Martens Olson & Bear LLP
2040 Main Street,
Fourteenth Floor
Irvine, CA 92614

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
Ronald J. Judge et al. : **TO MAKE SPECIAL**
Application No. 10/704,177 : **(INFRINGEMENT)**
Filed: November 7, 2003 :
For: CONTROLLER FOR A QUICK
DISCONNECT SLIDE ASSEMBLY

This is a decision on the petition under 37 C.F.R § 1.102(d) filed February 11, 2004 to make the above-identified application special. The delay in acting on this petition is regrettable.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

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

The petition filed February 11, 2003 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed concurrently with the petition.

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

SNM/vdb: 4/29/04



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4350 LA JOLLA VILLAGE DRIVE #700
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SEP 14 2007

OFFICE OF PETITIONS

In re Application of
HIER, Richard G.
Application No. 10/704,178
Filed: November 06, 2003
Attorney Docket No. 39930-0006

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DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 14, 2007.

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

A review of the file record indicates that the power of attorney to HELLER EHRMAN LLP has been revoked by the applicant of the patent application on August 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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


Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LARRY C. LEE**
1134 GAYWOOD ST.
SAN DIEGO, CA 92154

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No. _____

DATE : October 3, 2006

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/704180 patent No.: 7,092,592

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: REQUEST FOR CORRECTION IS APPROVED SA

SAMIR AHMED
PRIMARY EXAMINER SPE

2624
Art Unit

001

USPTO WG 2620

09/18/07 09:48 FAX 703 308 5397

PAGE 1/1 * RCVD AT 9/18/2007 10:41:49 AM [Eastern Daylight Time] * SVR:USPTO-EF-XRF-916 * DNIS:2709842 * CSID:703 308 5397 * DURATION (mm-ss)00-44



UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of :
John A. Lust et al :
Serial No.: 10/704,206 : PETITION DECISION
Filed: November 7, 2003 :
Attorney Docket No.: 150.188US3 :

This is in response to a letter, filed November 10, 2006, for withdrawal of abandonment of the above identified application based on mailing an Office action to an incorrect address.

A review of the file history shows that this application was filed November 7, 2003, by the above identified attorneys and was accepted and forwarded for examination upon payment of the filing fee. On October 20, 2004, a facsimile transmitted Change of Correspondence Address was received under this Serial Number, but having a different first named inventor and different Attorney Docket Number. In addition it was not signed by an attorney of record. Erroneously the change of address to J. C. Patents was entered. On April 25, 2006, the examiner assigned the application mailed a first Office action to the new address, setting a three month shortened statutory period for reply. On May 5, 2006, the Office action was returned to the Office with a note from the receiving attorney that the application was not theirs. A second copy was received on May 8, 2006, with a similar note. On October 31, 2006, upon failure to receive a reply to the Office action, a Notice of Abandonment was mailed to the same address. On November 10, 2006, a letter was received from J. C. Patents indicating again that the application was not theirs and explaining that they were at fault for submitting a change of address for this Serial Number, but that they has mistyped the Serial Number on the form.

In view of the above statement of facts it is clear that the Change of Address form submitted was done so in error and should not have been accepted by the Office. Office records will be corrected to reflect the original correspondence address. The Notice of Abandonment is hereby withdrawn as mailed in error and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The Office action originally mailed April 25, 2006, will be remailed to the correct address.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number.



George Elliott
Director, Technology Center 1600



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

COPY MAILED

JAN 10 2007

OFFICE OF PETITIONS

In re Application of
John A. Lust et al.
Application No. 10/704,206
Filed: November 7, 2003
Attorney Docket No. 150.188US3

ON PETITION

This is a decision on the petition filed December 29, 2006 to withdraw the holding of abandonment under 37 CFR 1.181 or in the alternative, to revive the above identified application under 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **DISMISSED as involving moot issues**.
The petition under 37 CFR 1.137(a) is **DISMISSED as involving moot issues**.

This application became abandoned July 26, 2006 for failure to file a timely response to the non-Final Office Action mailed April 25, 2006. Accordingly, a Notice of Abandonment was mailed October 31, 2006.

Petitioner argues that the address of record was erroneously changed and the office action mailed April 25, 2006 was therefore not received in that the office action was mailed to the wrong address.

A review of the file confirms that the address of record was improperly filed and incorrectly accepted and entered by the United States Patent and Trademark Office (USPTO). As a result, the office action mailed April 25, 2006 was mailed to the wrong address. Additionally, a review of the file reveals that in view of the error, a petition to withdraw the holding of abandonment, filed November 10, 2006 by the parties who inadvertently requested the change of address, was granted by the Director of Technology Center 1600 in a decision mailed January 3, 2007. The decision indicated that the non-Final Office Action originally mailed April 25, 2006 would be re-mailed to the correct address.

In view of the above, there is no need to treat either the petition under 37 CFR 1.181 or in the alternative, the petition under 37 CFR 1.137(b). Furthermore, no petition fees are due and none have been charged.

The Notice of Abandonment has been withdrawn. This matter is being referred to Technology Center 1600 for further examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



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

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JUL 26 2006

OFFICE OF PETITIONS

In re Application of :
Steve D. Schmeichel et al :
Application No. 10/704,219 : ON PETITION
Filed: November 6, 2003 :
Attorney Docket No. 758.1452US11 :

This is a decision on the petition, filed July 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 May 24, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 3748 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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



**HOLLAND & KNIGHT
10 ST. JAMES AVENUE
BOSTON MA 02116**

COPY MAILED

FEB 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Jane Wen Chang et al	:	
Application No. 10/704,225	:	ON PETITION
Filed: November 6, 2003	:	
Attorney Docket No. 11646-008002	:	

This is a decision on the petition, filed February 9, 2006, and supplemented on February 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 January 3, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 2167 will consider the request for continued examination under 37 CFR 1.114.


 Karen Creasy
 Petitions Examiner
 Office of Petitions
 Office of the Deputy Commissioner
 for Patent Examination Policy

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



HOLLAND & KNIGHT LLP
10 ST. JAMES AVENUE
BOSTON, MA 02116

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OCT 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Jane Wen Chang et al	:	
Application No. 10/704,225	:	DECISION ON PETITION
Filed: November 6, 2003	:	TO WITHDRAW
Attorney Docket No. 11646-008002	:	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 3, 2006.

The petition is **NOT APPROVED**.

A review of the file record indicates that the power of attorney to Kenneth F. Kozik, along with all of the other attorneys associated with the law firm of Holland & Knight LLP, has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. §1.36(b) is moot.

Additionally, the Request to Withdraw as attorney submitted April 3, 2006 is incomplete.

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

This application is being referred to Technology Center AU 2167 for the mailing of the Notice of Allowance of September 1, 2006.

Telephone inquiries concerning this decision should be directed to Karen Creasy at 571-272- 3208.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

GATES & COOPER LLP
6701 CENTER DRIVE WEST
SUITE 1050
LOS ANGELES CA 90045



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7000783 :
Issue Date: February 21, 2006 :
Application No. 10704230 :DECISION GRANTING PETITION
Filed: November 7, 2003 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 5083-0001 :

This is a decision on the electronic petition, filed May 7, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 7, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7000783	2006-02-21	10704230	2003-11-07	5083-0001

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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

Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

Signature	/michaeldiaz/	Date (YYYY-MM-DD)	2010-05-07
Name	Michael Diaz	Registration Number	40588

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

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



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

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FEB 03 2005

OFFICE OF PETITIONS

In re Application of :
Zeldis, Jerome B. :
Application No. 10/704,237 : **ON PETITION**
Filed: November 6, 2003 :
Attorney Docket No. 9516-185-999 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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 February 12, 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 13, 2004. A Notice of Abandonment was mailed on November 30, 2004.

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
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MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

COPY MAILED

AUG 23 2006

OFFICE OF PETITIONS

In re Application of :
Temple et al. :
Application No. 10/704,238 :
Filed: November 7, 2003 :
Attorney Docket No. 11254-010-999 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed December 21, 2005, to change the order of the names of the inventors.

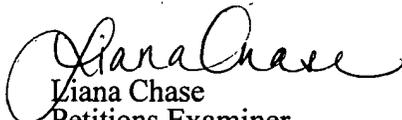
The petition is **GRANTED**.

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

1. Stephen R. TEMPLE
2. Michael J. STOLTZ

This matter is now being referred to the Publishing Division for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3282. All other inquiries should be directed to the Publishing Division.


Liana Chase
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/704,238	11/07/2003	1754	1220	11254-010-999	2	1	1

24341
MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

CONFIRMATION NO. 3030
CORRECTED FILING RECEIPT
OC000000020159602
OC000000020159602

Date Mailed: 08/23/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Stephen R. Temple, Santa Cruz, CA;
Michael J. Stoltz, Duncansville, PA;

Assignment For Published Patent Application

Steen Research LLC

Power of Attorney:

Gary Williams--31066
David Owens--40756

Domestic Priority data as claimed by applicant

This application is a DIV of 09/797,859 03/02/2001 PAT 6,645,450
which claims benefit of 60/186,694 03/03/2000

Foreign Applications

If Required, Foreign Filing License Granted: 02/06/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/704,238**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

METHOD AND APPARATUS FOR USE OF REACTED HYDROGEN PEROXIDE COMPOUNDS
IN INDUSTRIAL PROCESS WATERS

Preliminary Class

422

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).



WILLIAM COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

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DEC 14 2006

OFFICE OF PETITIONS

In re Application of
Hua Peng Liew
Application No. 10/704,239
Filed: November 6, 2003
Attorney's Docket No. 11024-004-999

ON PETITION

This is a decision on the petition filed June 3, 2006 under 37 CFR 1.137(b)¹, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on May 6, 2004, for failure to timely reply to the Notice to File Missing Parts, mailed March 5, 2004, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed December 3, 2004.

The submission of the oath or declaration and late filing fee, as required by the Notice to File Missing Parts mailed March 5, 2004 is acknowledged.

All other requirements having been met, this application is being forwarded to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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 require additional information where there is a question whether the delay was unintentional; and

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



HOFFMANN & BARON LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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OFFICE OF PETITIONS

In re Application of :
Russell G. Attridge, Jr. :
Application No. 10/704,251 :
Filed: November 7, 2003 :
Attorney Docket No. 530-5 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed August 8, 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 October 14, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

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

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

- (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122 (b) (2) (B) (i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 15, 2005 accompanies this decision on petition.

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

This matter is being referred to Technology Center AU 2125 for examination in due course.



Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Notice Regarding Rescission of Nonpublication Request



THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL BUSINESS CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

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JAN 04 2007

OFFICE OF PETITIONS

In re Application of :
Myatt et al. :
Application No. 10/704,253 :
Filed: November 7, 2003 :
Title: Stabilized Compositions Comprising A :
Probiotic :

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed November 29, 2006.

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

This application was held abandoned July 8, 2006 for failure to timely reply to the non-final Office Action mailed on April 7, 2006. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed November 13, 2006.

Petitioner asserts that a reply to the non-final Office Action and a one month extension of time were timely submitted on August 3, 2006. As evidence, petitioner has submitted a copy of the reply. The reply also contains a certificate of mailing dated August 3, 2006 pursuant to 37 CFR 1.8.

The response submitted on August 3, 2006 has been located in the Office.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to Art Unit 1651 for further review of the reply.

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

A handwritten signature in black ink, appearing to read "Charlema R. Grant". The signature is written in a cursive, flowing style.

Charlema R. Grant
Petitions Attorney
Office of Petitions



PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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FEB 03 2006

OFFICE OF PETITIONS

In re Application of :
Josephus A.H.M. Kahlman, et al. :
Application No. 10/704,277 :
Filed: November 7, 2003 :
Attorney Docket No. PHQ 98-923B :

ON PETITION

This is a decision on the petition, filed January 30, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

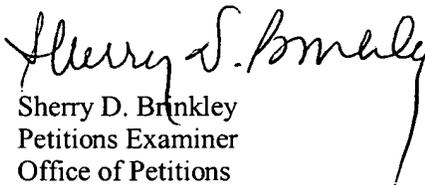
The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 22, 2005, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated December 20, 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 forwarded to Technology Center AU 2819 for further processing of the request for continued examination under 37 CFR 1.114.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-02-09

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/704283 Patent No.: 7255993

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



Angela Green

Certificates of Correction Branch
703-756-1541

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: _____

/Gary Benzion/

1637

SPE

Art Unit



KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS MN 55415-1002

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APR 3 0 2004

OFFICE OF PETITIONS

: DECISION GRANTING
: PETITION

In re Application of
Remy
Application No. 10/704,292
Filed: November 7, 2003
Attorney Docket No. S828.312-0017
For: METHOD FOR OPTIMISING THE ACCESS
TO AN INTERNET TYPE NETWORK BY
MEANS OF A CELLULAR RADIO-
COMMUNICATION TYPE NETWORK,
CORRESPONDING SYSTEM AND DEVICE

BEST AVAILABLE COPY

This is a decision on the petition under 37 CFR 1.10(c), filed March 16, 2004, requesting that the above-identified application be accorded a filing date of November 7, 2003. While Office computer records show the filing date of the application as November 7, 2003, the Office mailed petitioner a filing receipt citing November 6, 2003 as the filing date. To resolve the inconsistency regarding filing date, the petition must be addressed.

Petitioner requests a November 7, 2003 filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on November 7, 2003, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV302261483US showing a "date-in" of 11/7/03 and a USPS date stamp of NOV 7 2003. The same Express Mail label number is listed on the original Utility Patent Application Transmittal found in the application file.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EV302261483US was deposited with the USPS on November 7, 2003.

Accordingly, the petition is granted. No fee has been or will be charged in connection with this petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **November 7, 2003** and the mailing of a replacement filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : _____

TO SPE OF : ART UNIT 3662

SUBJECT : Request for Certificate of Correction on Patent No.: 6,864,828 B1

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

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch - PK 3-915

Palm location 7580 - Tel. No. 305-8309

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

Please see code COCIN, should the References Cited data be approved as office fault

Please return your response as soon as possible to SPowell.

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:

4/25/05

Thomas D. Marzgo
SPE

3662
Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 15 2006

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

CROWELL & MORNING, LLP
INTELLECTUAL PROPERTY GROUP
P. O. BOX 14300
WASHINGTON, DC 20044-4300

In re Application of :
Bernd Sundermann :
Serial No.: 10/704,329 : PETITION DECISION
Filed: November 10, 2003 :
Attorney Docket No.: 029310.52874 :

This is in response to the petition under 37 CFR 1.144, filed August 14, 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 November 10, 2003, and contained claims 1-157 with claims 10, 14-15, 17-18, 20-21, 24-28, 32, 34, 37-38, 42-47, 52-53, 58, 61-62, 64-65, 68-72, 76, 778-79, 81-82, 84-91, 99-100, 105, 108-109, 111-119, 123, 125-126, 128-129, 131-138, 144-146 and 148-157 being canceled by preliminary amendment.. In a first Office action, mailed July 15, 2005, the examiner set forth a restriction requirement based on the claims as originally filed, as follows:

- Group I – claims 1-94 and 141-142, drawn to products of Formula I;
- Group II – claims 95-140, drawn to methods of using compounds of Formula I; and
- Group III – claims 143-157, drawn to processes of preparing compounds of Formula I.

The examiner also required an election of a single species from whichever Group was elected with a caveat that the examiner would then determine the scope of the claims based upon the species elected. The examiner also advised of possible rejoinder of product and method claims.

Applicant replied on September 15, 2005, electing Group I and a species and traversing any further restriction requirement within a claim. Applicant further suggested that if a further restriction requirement was found necessary, the claims should be restricted based on the values of R¹ and R², and set forth three suggested groups.

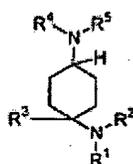
On November 15, 2005, the examiner mailed an Office action to applicant acknowledging the election and species and traversal. The examiner argued that the core structure, a 1,4-diamine substituted cyclohexane could not be considered the substantial structural feature essential to utility as it was not considered novel over the prior art and maintained the requirement. Claims 7-8 and 55-56 were rejected under 35 U.S.C. 112, second paragraph as indefinite. The examiner also defined the subject matter to be examined as where R^1 and R^2 are H or C_{1-8} alkyl (applicants suggested Group I), R^3 is phenyl, R^4 is H or C_{1-8} alkyl and R^5 is cycloalkyl, aryl, indole, etc.

Applicant replied on April 17, 2006, amending claims 1 and 33 and maintaining the traversal of the restriction requirement and responding to the rejections of record.

The examiner mailed a Final Office action to applicant on May 12, 2006, responding to the traversal of the restriction requirement in the same manner as before and making the requirement Final. The rejections under 35 U.S.C. 112, second paragraph were withdrawn. The Office action was made Final. However, no requirements were set forth for applicant to respond to.

DISCUSSION

Applicant's claims are directed to the compounds represented by formula I, as seen here:



The core structure is 1,4-diaminocyclohexane having potential substitutions on both amine groups and also the 1 position of the cyclohexane. While this structure is not novel, as noted correctly by the examiner, it is the common core. The compounds are claimed to have analgesic properties, a common utility. Thus the common core and utility meet the requirements for a proper Markush claim. Applicant has also indicated a willingness to have the Markush Group divided into three subgroups based on the values of R^1 and R^2 , as follows:

Group I – where R^1 and R^2 are H or C_{1-8} alkyl;

Group II – where R^1 and R^2 form a ring of 4-7 members optionally containing an additional O or N atom; and;

Group III – where R^1 and R^2 and cycloalkyl, aryl or aryl optionally bonded to the ring by a C_{3-8} alkylene.

The examiner, following applicant's election, limited the scope of examination to a subset of applicant's suggested Group I, by defining the limits of other R groups. Such was improper and not in accordance with M.P.E.P. 803.02 as argued by applicant. The Markush group set forth in claim 1 is proper and cannot be divided by the examiner.

It is noted that the Final Office action sets forth no rejections or requirements for applicant to reply to and is therefore incomplete. (Only the Summary sheet indicates claims objected to, but no formal objection is set forth in the Office action.)

DECISION

The petition is **GRANTED**.

The restriction requirement within the Markush Group is withdrawn as improper. However the examiner may accept applicant's suggested Groups noted above for further prosecution, Group I being the elected Group.

In view of the above decision and incompleteness of the Final Office action, the Final Office action is withdrawn. The application will be forwarded to the examiner for preparation of a new Office 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.
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

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Mail Date: 04/21/2010

Applicant	: Philip D. Beck	: DECISION ON REQUEST FOR
Patent Number	: 7660768	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/704,342	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1650** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Mail Date: 05/18/2010

Applicant	: Philip D. Beck	: NOTICE CONCERNING IMPROPER
Patent Number	: 7660768	: CALCULATION OF PATENT TERM
Issue Date	: 02/09/2010	: ADJUSTMENT BASED UPON USPTO
Application No	: 10/704,342	: IMPROPERLY MEASURING REDUCTION
Filed	: 11/07/2003	: 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 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 **1739** 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).



**JAMES CONTE
WELSH & KATZ
120 SOUTH RIVERSIDE PLAZA
CHICAGO IL 60606**

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In re Application of :

KELLY, David R. et al. :

Application No. 10/704,346 :

Filed: November 07, 2003 :

Attorney Docket No. 926359-94493 :

**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 14, 2008.

The request is **NOT APPROVED**.

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

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

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

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


Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606**



UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE : December 30, 2009
TO : Director, Office of Patent Publication
FROM : Office of Petitions
SUBJECT : Withdrawal from Issue of **Application No. 10/704,346**

Applicant(s) : David R. KELLY, et *al.*
Application No. : 10/704,346
Filed : November 7, 2003

The above-identified application has been assigned Patent No. 7,645,379 and an issue date of January 12, 2010.

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 January 12, 2010:

"All reference to Patent No. 7,645,379 to David R. KELLY, et *al.* of St. Charles, Illinois for WATER FEATURE CONSTRUCTION appearing in the Official Gazette of January 12, 2010 should be deleted since no patent was granted."

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Brad Harris
Kimberly Terrell
Lamont Fletcher



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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COZEN O'CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA PA 19103-3508

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MAR 28 2008

OFFICE OF PETITIONS

In re Patent No. 7,241,877 : DECISION ON REQUEST
Adair et al. : FOR RECONSIDERATION OF
Issue Date: July 10, 2007 : PATENT TERM ADJUSTMENT
Application No. 10/704,352 :
Filed: November 7, 2003 :
Atty Docket No. CARP0001-105 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed September 7, 2007. This decision is made in light of the SUBSTITUTE REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed September 18, 2007. In effect, patentees request that the Patent Term Adjustment indicated in the Issue Notification and on the face of the patent be corrected from five hundred twenty-seven (527) days to five hundred sixty-seven (567) days.

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

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

On July 10, 2007, the above-identified application matured into U.S. Patent No. 7,241,877. The instant request for reconsideration filed September 7, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 527 days. Patentees dispute a reduction of 40 days associated with the filing of a "miscellaneous incoming letter" received in the Office on July 1, 2007. Citing MPEP 2732, patentees argue that the letter should be treated like a request to correct an omission in a Notice of Allowance and not considered to be a

failure to engage in reasonable efforts to conclude processing or examination of an application. Further, patentees state that they could not file this paper until after the Notice of Allowance was received.

Patentees' arguments have been considered, but not found persuasive. A review of the record confirms that the paper filed June 1, 2007 was a COMMUNICATION REGARDING PATENT TERM ADJUSTMENT. It was not a COMMENT ON THE REASONS FOR ALLOWANCE and it did not set forth any omission in the Notice of Allowance. Moreover, it was not a submission of an application for patent term adjustment under § 1.705(b) (with or without request under §1.705(c) for reinstatement of reduced patent term adjustment). Rather, it was a miscellaneous letter concerning patent term adjustment. As stated in MPEP 2732:

Thus, while submission of an application for patent term adjustment under 37 CFR 1.705(b) (regardless of whether it contains a request under 37 CFR 1.705(c) for reinstatement of reduced patent term adjustment) will interfere with the patent printing process, submission of the application will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under 37 CFR 1.704(c)(10). Other papers concerning patent term adjustment (e.g., status letters, untimely applications for patent term adjustment, requests for reconsideration of the Office's decisions on applications for patent term adjustment, petitions under 37 CFR 1.181, 1.182, or 1.183 concerning patent term adjustment, or miscellaneous letters concerning patent term adjustment), however, will be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under 37 CFR 1.704(c)(10).

It is concluded that entry of the reduction of 40 days for applicant delay is warranted.

In view thereof, the patent term adjustment indicated on the patent of five hundred twenty-seven (527) days is correct.

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

It is further noted that the filing of the paper on July 1, 2007 was unnecessary. Patentees are reminded that the filing of a terminal disclaimer has no effect on the determination of patent term adjustment set forth on any patent issuing from this application. 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.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

MAILED
JUN 23 2010
OFFICE OF PETITIONS

In re Application of :
JASSERAND et al. :
Application No. 10/704,356 : DECISION ON APPLICATION
Filed: November 10, 2003 : FOR
Docket No. 029300.52801US : PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT IN NOTICE OF ALLOWANCE UNDER 37 C.F.R. § 1.705(b)" filed February 19, 2010. Applicants request correction of the patent term adjustment from six hundred seventy-two (672) days to eight hundred forty (840) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the patent term adjustment determination at the time of the mailing of the Notice of Allowance is **eight hundred forty (840) days**. A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

On November 24, 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 672 days. Applicants timely filed the instant application for patent term adjustment¹.

¹ PALM Records indicate that the Issue Fee payment was received on February 19, 2010.

In the present petition, applicants assert that they are entitled to a period of adjustment, pursuant to 37 CFR 1.702(a)(1), of 595 day, not 427 days. Specifically, applicants aver that non-final Office action mailed March 13, 2006, did not apply to the above-identified application as evidenced by the Interview Summary mailed August 28, 2006. Applicants argue that the Office did not mail at least one notification under 35 U.S.C. 132 until the mailing of a non-final Office action on August 28, 2006, fourteen months and 595 days after the date on which the application was filed.

Applicants' arguments and evidence have been considered. A review of the record confirms that the non-final Office action of March 13, 2006, was mailed in error as it did not apply to the present application. Thus, the non-final Office action mailed on March 13, 2006, did not meet the minimum requirements of a first notification under 35 U.S.C. 132. The Office did not mail a proper first notification under 35 U.S.C. 132 until the mailing of the non-final Office action on August 28, 2006, fourteen months and 595 days after the date on which the application was filed. Accordingly, the period of adjustment of 427 days for Office delay will be removed and a period of adjustment of 595 days will be entered.

In view thereof, the patent term adjustment at the time of the mailing of the Notice of Allowance is **eight hundred forty (840) days** (922 days of Office delay - 82 days of applicant delay).

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

PALM INTRANET

PTA Calculations for Application: 10/704356

Application Filing Date:	11/10/2003	PTO Delay (PTO):	754
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	82
Post-Issue Petitions:	0	Total PTA (days):	840
PTO Delay Adjustment:	168		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
90	06/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	595		
89	06/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		427	
71	11/24/2009	MAIL NOTICE OF ALLOWANCE			
70	11/21/2009	ISSUE REVISION COMPLETED			
69	11/21/2009	DOCUMENT VERIFICATION			
68	11/21/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
67	11/21/2009	EXAMINER'S AMENDMENT COMMUNICATION			
66	11/09/2009	NOTICE OF ALLOWABILITY			
61	09/02/2009	DATE FORWARDED TO EXAMINER			
60	08/05/2009	RESPONSE AFTER NON-FINAL ACTION			
59	08/07/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
58	08/04/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
57	05/13/2009	MAIL NON-FINAL REJECTION			
56	04/30/2009	NON-FINAL REJECTION			
55	04/29/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
52	04/03/2009	DATE FORWARDED TO EXAMINER			
51	03/31/2009	AMENDMENT AFTER FINAL REJECTION			
50	12/31/2008	MAIL FINAL REJECTION (PTOL - 326)			
49	12/30/2008	FINAL REJECTION			
47	10/25/2008	DATE FORWARDED TO EXAMINER			
46	10/21/2008	RESPONSE AFTER NON-FINAL ACTION		52	44
45	10/21/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			

44	05/30/2008	MAIL NON-FINAL REJECTION			
43	05/30/2008	NON-FINAL REJECTION			
42	05/21/2008	DATE FORWARDED TO EXAMINER			
41	05/21/2008	WITHDRAWAL OF NOTICE OF ALLOWANCE			
40	04/07/2008	PUBS CASE REMAND TO TC			
39	04/21/2008	WORKFLOW - QUERY REQUEST - BEGIN			
38	03/24/2008	EXPORT TO INITIAL DATA CAPTURE			
37	03/20/2008	MAIL NOTICE OF ALLOWANCE	327		29
36	03/20/2008	MAIL EXAMINER'S AMENDMENT			
35	03/19/2007	ISSUE REVISION COMPLETED			
34	03/19/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
33	03/19/2007	CASE DOCKETED TO EXAMINER IN GAU			
32	03/19/2007	EXAMINER'S AMENDMENT COMMUNICATION			
31	03/19/2007	NOTICE OF ALLOWABILITY			
30	01/10/2007	DATE FORWARDED TO EXAMINER			
29	12/28/2006	RESPONSE AFTER NON-FINAL ACTION		30	27
28	12/28/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	08/28/2006	MAIL NON-FINAL REJECTION			
26	08/22/2006	NON-FINAL REJECTION			
25	08/23/2006	MAIL NOTICE OF WITHDRAWN ACTION			
24	08/22/2006	LETTER WITHDRAWING / VACATING OFFICE ACTION			
23	03/13/2006	MAIL NON-FINAL REJECTION	427		-1
22	03/06/2006	NON-FINAL REJECTION			
21	11/10/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	04/20/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	08/18/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	08/18/2004	CASE DOCKETED TO EXAMINER IN GAU			
17.7	11/10/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	11/10/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	04/20/2004	REFERENCE CAPTURE ON IDS			
15.7	04/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

15	04/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	04/29/2004	APPLICATION RETURN FROM OIPE			
13	04/29/2004	APPLICATION RETURN TO OIPE			
12	04/28/2004	APPLICATION DISPATCHED FROM OIPE			
11	04/29/2004	APPLICATION IS NOW COMPLETE			
10	04/20/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
9	04/20/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	02/20/2004	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
5	02/05/2004	CLEARED BY L&R (LARS)			
4	01/29/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	01/29/2004	CASE CLASSIFIED BY OIPE			
2	12/15/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/10/2003	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Patent No. 6,972,124
Issue Date: December 6, 2005
Application No. 10/704,365
Filed: November 7, 2003
Patentee(s): Minmin Qin, et. al.

NOTICE

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on August 10, 2009.

The request is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34(a), the signature of Luisa Bigornia appearing on the request shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and all future fees submitted must be paid at the large entity rate.

A courtesy copy of this Notice is being mailed to the address given in the present request.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Luisa Bigornia
BioMarin Pharmaceutical Inc.
105 Digital Drive
Novato, CA 94949



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DONALD J LENKSZUS
PO BOX 3064
CAREFREE AZ 85377-3064

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JUL 20 2007

OFFICE OF PETITIONS

In re Application of :
Liepold et al. :
Application No. 10/704368 : DECISION ON PETITION
Filed: 11/08/2003 :
For: TEMPERATURE SENSING :
CIRCUIT :

This is a decision on the petition filed on 30 May, 2007, under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 19 November, 2006, for failure to timely submit a reply to the final Office action mailed on 18 August, 2006, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 4 May, 2007.

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 require additional information where there is a question whether the delay was unintentional; and

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

Petitioner has filed a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This application is being referred to Technology Center 2859 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



DONALD J LENKSZUS
PO BOX 3064
CAREFREE AZ 85377-3064

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of :
Carl F. LIEPOLD et al. :
Application No. 10/704,368 : **DECISION ON PETITION**
Filed: November 08, 2003 :
Attorney Docket No. **ANDIGILOG-002** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 09, 2008, to revive the above-identified application.

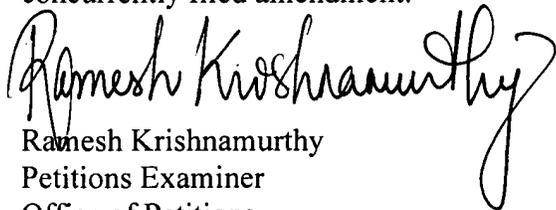
The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 19, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 20, 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 \$770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of October 19, 2007 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2855 for appropriate action on the concurrently filed amendment.


Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



Ladas & Parry
26 West 61 Street
New York NY 10023

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JUL 01 2004

OFFICE OF PETITIONS

In re Application of
Kazimierz Bylica
Application No. 10/704,372
Filed: November 7, 2003
Attorney Docket Number: U014878-5

:
:
: DECISION REFUSING STATUS
: UNDER 37 C.F.R. §1.47(b)
:
:

This is in response to the petition under 37 C.F.R. §1.47(b), filed April 12, 2004.

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 November 7, 2003, without an executed oath or declaration, and naming Kazimierz Bylica as sole inventor. Accordingly, on February 10, 2004, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition, the surcharge for late filing of the declaration, and a declaration.

Pursuant to petitioner's request deposit account 12-0425 will be charged the \$130.00 petition fee.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to establish (1), (2), (4), (5) and (6).

Proof of Refusal to Sign the Oath or Declaration

As to item (1), Rule 47 applicant has failed to show that the legal representative of inventor Bylica refused to sign the declaration after having been presented with the application papers. Pursuant to 37 CFR 1.42 the legal representative of the deceased inventor may make the necessary oath or declaration. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). 37 CFR 1.47 does apply where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. See MPEP § 409.03 (c).

An Acceptable Oath or Declaration

As to item (2), the granting of 47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. Petitioner has provided a declaration which contains the required information for the deceased inventor as well as that of the representative of the applicant corporation. However, the declaration does not meet the requirements of 37 CFR 1.63 with regard to the legal representative of inventor Bylica. The declaration required must state the full name, residence, post office address, and citizenship of the non-signing legal representative.

Last Known Address

As to item (4), the last known address of the legal representative must be given (see MPEP § 409.03(e)).

Proof of Proprietary Interest

As to item (5), proprietary interest is usually found by establishing a) the invention has been assigned to applicant, or b) the inventor has agreed in writing to assign the invention to the applicant or c) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. See MPEP 409.03(f). Rule 47 applicant has provided statement from President of the Board of Directors of applicant corporation Geoparter Sp. and a copy of a copyright agreement. The evidence provided is insufficient to establish proprietary interest in the subject matter to justify the filing of the application.

Petitioner may wish to present 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, award the title of the invention to the Rule 47 (b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record. See MPEP 409.03(f)



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OFFICE OF PETITIONS

In re Application of :
Kazimierz Bylica :
Application No.10/704,372 : **DECISION REFUSING STATUS**
Filed: November 7, 2003 : **UNDER 37 C.F.R. §1.47(b)**
Attorney Docket Number: U014878-5 :
:

This is in response to the petition under 37 C.F.R. §1.47(b), filed April 12, 2004.

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

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to establish (1), (2), and (4) .

It is noted that petitioner on renewed petition argues that it is not possible to present an assignment of entire rights to the patent by the heirs of the deceased inventor because it did not belong to the estate and it could not have been assigned to any entity by heirs of the deceased. However, the purpose of locating the legal representative of deceased inventor is that the legal representative steps into the shoes of the deceased inventor. If the deceased inventor were alive, an attempt to get the inventor to sign the declaration would be required whether the inventor had assigned his interest or not. Accordingly, it follows such attempts should be made for the legal representative of the deceased inventor. The declaration of Polish Patent Attorney Kowal has established proprietary interest (5) but items (1), (2) and (4) have not been met. If after diligent effort it is determined that a legal representative cannot be located such a statement and evidence of diligent effort should be provided.

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

A handwritten signature in black ink, appearing to read "Charlema R. Grant". The signature is fluid and cursive, with a prominent initial "C" and a long, sweeping underline.

Charlema R. Grant
Petitions Attorney
Office of Petitions



Ladas & Parry
26 West 61 Street
New York NY 10023

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OFFICE OF PETITIONS

In re Application of	:	
Kazimierz Bylica	:	
Application No.10/704,372	:	DECISION REFUSING STATUS
Filed: November 7, 2003	:	UNDER 37 C.F.R. §1.47(b)
Attorney Docket Number: U014878-5	:	
	:	

This is in response to the petition under 37 C.F.R. §1.47(b), filed September 30 2005 and supplemented on October 19, 2005.

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). **Petitioner is entitled to a renewed petition with regards to this decision if desired. Thereafter, there will be no further consideration to a renewed petition under 37 CFR § 1.47 (a) which espouses the same arguments presented in the present petition and the petitions filed on December 6, 2004.**

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to establish (1), (2), and (4) .

Petitioner reasserts the argument that it is not possible to present a declaration within the meaning of 37 CFR 1.63 containing the information of the deceased inventor's legal representative. Petitioner's arguments have been considered but they are not persuasive. The evidence provided on renewed petition clearly shows that the deceased inventor was survived by a widow (Elzbieta Milka-Bylica) and minor (Marek Bylica). Further the evidence shows the minor was represented by a custodian at the legal proceeding. Petitioner has provided no evidence to establish that a bonafide attempt has been made to obtain the signature of a legal representative. To the extent petitioner contends that the mailing of the documents to the last address of the

deceased inventor was an attempt, such actions alone will not aid in establishing that the legal representative refuses to execute the application papers or a legal representative cannot be located.

Once the documents sent to the deceased inventor's last known address were returned, what steps were taken to locate the legal representative. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the legal representative could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the legal representative should be included in the statement of facts.

Proof of Refusal to Sign the Oath or Declaration

As to item (1), Rule 47 applicant has failed to show that the legal representative of inventor Bylica refused to sign the declaration after having been presented with the application papers. Pursuant to 37 CFR 1.42 the legal representative of the deceased inventor may make the necessary oath or declaration. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). 37 CFR 1.47 does apply where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. See MPEP § 409.03 (c).

An Acceptable Oath or Declaration

As to item (2), the granting of 47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. Petitioner has provided a declaration which contains the required information for the deceased inventor as well as that of the representative of the applicant corporation. However, the declaration does not meet the requirements of 37 CFR 1.63 with regard to the legal representative of inventor Bylica. The declaration required must state the full name, residence, post office address, and citizenship of the non-signing legal representative.

Last Known Address

As to item (4), the last known address of the legal representative must be given (see MPEP § 409.03(e)).

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

Application No. 10/704,372

Page 3

By facsimile: (571) 273-8300

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

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



Charlema R. Grant
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OCT 17 2007

OFFICE OF PETITIONS

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
901 NEW YORK AVENUE
WASHINGTON, DC 20001-4413

In re Application of :
Andrew Heaton et al :
Application No. 10/704,385 : ON PETITION
Filed: November 7, 2003 :
Attorney Docket No. 07579.0016-01000 :

This is a decision on the petition, filed October 16, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

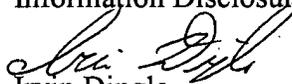
The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 29, 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 1624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.


Irvin Dingle
Petitions Examiner
Office of Petitions

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



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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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JUL 28 2004

In re Application of :
King Yeung Choi et al. :
Serial No. 10/704,395 : DECISION ON PETITION
Filed: November 6, 2003 : TO MAKE SPECIAL
For: MEDIA STORAGE DISK BOX :

Applicant's petition, filed June 17, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Robert C. Faber
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, NY 10036-8403



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APR -7 2005

In re Application of :
King Yeung Choi et al. :
Serial No. 10/704,395 : DECISION ON PETITION
Filed: November 6, 2003 : TO MAKE SPECIAL
For: MEDIA STORAGE DISK BOX :

Applicant's petition, filed June 17, 2004, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED

E. R. Kazenske, Director
Technology Center 3700

Robert C. Faber
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, NY 10036-8403



THOMPSON COBURN, LLP
ONE US BANK PLAZA
SUITE 3500
ST LOUIS MO 63101

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JUL 12 2006
OFFICE OF PETITIONS

In re Application of :
Rice et al. :
Application No. 10/704,407 : **ON PETITION**
Filed: November 6, 2003 :
Attorney Docket No. 56029-32897 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on March 30, 2006, to accept an unintentionally delayed claim under 35 USC 120 for the benefit of prior- filed nonprovisional applications as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

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

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

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

This application is being forwarded to the examiner of Technology Center Art Unit 1648 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior- filed applications.



Frances Hicks
Petitions Examiner
Office of Petition

Attachment: Corrected Filing Receipt


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 United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/704,407	11/06/2003	1648	514	56029-32897	45	20	6

 021888
 THOMPSON COBURN, LLP
 ONE US BANK PLAZA
 SUITE 3500
 ST LOUIS, MO 63101

CONFIRMATION NO. 3236
CORRECTED FILING RECEIPT
OC00000019425099
 OC000000019425099

Date Mailed: 06/29/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)
 Charles M. Rice, University City, MO;
 Alexander A. Kolykhalov, St. Louis, MO;

Power of Attorney: The patent practitioners associated with Customer Number **021888**.
Domestic Priority data as claimed by applicant
 This application is a CON of 09/917,563 07/27/2001 ABN
 which is a CON of 09/238,076 01/26/1999 ABN
 which is a CON of 08/811,566 03/04/1997 PAT 6,127,116
 which is a CIP of 08/520,678 08/29/1995 PAT 5,874,565
Foreign Applications

If Required, Foreign Filing License Granted: 01/08/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/704,407**
Projected Publication Date: None.

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Functional DNA clone for hepatitis C virus (HCV) and uses thereof

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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



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SEP 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,196,175 :
Tamatani et al. : ON PETITIONS
Application No. 10/704,426 : under 37 CFR 1.183
Issue Date: March 27, 2007 : and
Filed: November 7, 2003 : ON REQUEST FOR RECONSIDERATION
Attorney Docket No. : OF PATENT TERM ADJUSTMENT
14539-004007 :

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits an Application for Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Application for Patent Term Adjustment, both filed on January 22, 2009.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On March 27, 2007, the above-identified application matured into U.S. Patent No. 7,196,175 with a revised patent term adjustment of 382 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months

of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that an Application for Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

**ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)**

The above-referenced patent issued on March 27, 2007. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until January 22, 2009. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (emphasis added).*

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by May 27, 2007, the date two months from the date this patent issued, March 27, 2007. Rather, on January 22, 2009, nearly four (4) months after the issuance of a decision in Wyeth v. Dudas on September 30,

2008, petitioner filed the instant request for waiver of the two-month requirement.

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. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures¹ include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioners' arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioners is

¹ 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008).

Petitioners argue, in pertinent part:

The PTA for the instant patent, as currently calculated and shown on the face of the patent, apparently relies on the premise that the application was delayed under 35 U.S.C. § 154(b)(1)(B) *before* the initial three-year period expired. The Wyeth v. Dudas court determined that this construction cannot be squared with the language of 35 U.S.C. § 154(b)(1)(B), which applies "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." "B delay" begins only after the PTO has failed to issue a patent within three years, not before. Id.

(emphasis in original)

Petitioners have not explained why they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioners' argument for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered over one and one-half years after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioners chose not to challenge their revised patent term adjustment within the two-month period. Petitioners have not explained why a request for reconsideration of the revised patent term adjustment was not timely filed. It appears that petitioners' argument is they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of

the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent. Petitioner's argument, however, is not persuasive.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained over one and one-half year delay in filing the petition weighs against them.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and 37 CFR 1.323 or 35 U.S.C. 255 and 37 CFR 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in §1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request

for reconsideration within the time period specified in §1.705(d). See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

**ON REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)**

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed January 22, 2009. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to five hundred fifty-two (552) days.

On March 27, 2007, the above-identified application matured into U.S. Patent No. 7,196,175 with a revised patent term adjustment of 382 days. The instant request for reconsideration was filed more than one and one-half years after the issuance of the patent, on January 22, 2009.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR

1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

The address in the petition is different than the correspondence address. A courtesy copy of this decision will be mailed to the address in the petition. All future correspondence, however, 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.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.



Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

FISH & RICHARDSON, P.C.
CITIGROUP CENTER
52ND STREET
153 EAST 53RD STREET
NEW YORK NY 10022-4611



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OFFICE OF PETITIONS

In re Patent No. 7,196,175 : ON PETITION
Tamatani et al. : UNDER 37 CFR 1.183
Issue Date: 03/27/2007 : and
Application No. 10/704,426 : ON APPLICATION FOR
Filed: 11/07/2003 : PATENT TERM ADJUSTMENT
Attorney Docket No. 14539-004007 :

This is a decision on the "Response to Decision on Petition Under 37 C.F.R. § 1.183 and on Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(d)," filed November 11, 2009, requesting suspension of the time limit for consideration of an application for patent term adjustment ("PTA"). The response is properly treated as a request for reconsideration of petition under 37 CFR 1.183.

This petition is hereby **DENIED**. This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. *See*, MPEP 1002.02.

Your petition requesting suspension of the time limit for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,196,175 is denied. On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of a PTA determination under 37 CFR sec. 1.705(d). *See, Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth v. Kappos Regarding Overlapping Delay Provisions of 35 U.S.C. sec. 154(b)(2)(A)*, 75 Fed. Reg. 5043 (Feb. 1, 2010) (notice).

Specifically, patent owners were permitted to request recalculation of a patent's PTA in view of the Federal Circuit decision *Wyeth v. Kappos*, 591 F.3d 1364 (Fed. Cir. 2010), up to 180 days after the grant of the patent. The USPTO determined not to accept requests for PTA recalculation more than 180 days after patent grant, however, in view of the statutory judicial-review provisions of 35 U.S.C. sec. 154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant. The USPTO believes that the statutory 180-day period for seeking court review of the USPTO's PTA determinations,

particularly in view of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be resolved shortly after a patent issues. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek USPTO review of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. sec. 154(b)(4) represents the outer limit on the USPTO's ability to conclude its PTA determination.

The present renewed petition under 37 CFR 1.183 is granted to the extent that the decision of September 29, 2009 has been reconsidered; however, the renewed petition requesting suspension of the time limit for consideration of an application for patent term adjustment under 37 CFR 1.183 is **DENIED**.

This patent file is being referred to the Files Repository.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.



Anthony Knight
Director
Office of Petitions



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OFFICE OF PETITIONS

INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

In re Application of
Sridhar Lakshmanamurthy, et al.
Application No. 10/704,431
Filed: November 6, 2003
Attorney Docket No. P16852

:
:
:
:
:

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 9, 2009.

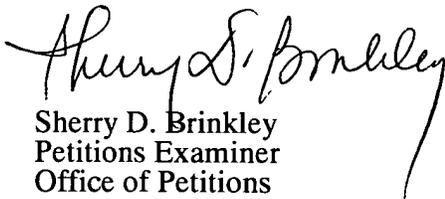
The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before November 10, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed August 8, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 9, 2008. A Notice of Abandonment was mailed on December 3, 2008. On February 9, 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 the \$1,510 issue fee and \$300 publication fee; (2) the petition fee of \$1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions



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Alexandria, VA 22313-1450
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**GUNSTER, YOAKLEY & STEWART, PA
BROWARD FINANCIAL CENTRE, SUITE 1400
500 EAST BROWARD BLVD
FT LAUDERDALE FL 33394**

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JAN 31 2007

OFFICE OF PETITIONS

In re Application of :
Goldberg et al. :
Application No. 10/704,436 :
Filed: November 7, 2003 :
Attorney Docket No. 23797.00001(2) :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 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 replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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


Liana Walsh
Petitions Examiner
Office of Petitions



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Thomas B. Haverstock
162 North Wolfe Road
Sunnyvale, CA 94086

Mail Date: 04/21/2010

Applicant	: Richard M. Onyon	: DECISION ON REQUEST FOR
Patent Number	: 7634509	: RECALCULATION OF PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/704,443	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **707** 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.



FISH & RICHARDSON P.C.
3300 DAIN RAUSCHER PLAZA
MINNEAPOLIS MN 55402

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JUN 25 2004

OFFICE OF PETITIONS

In re Application of :
Latif, Sharma, Saya, and Kuhfeld : DECISION ACCORDING STATUS
Application No. 10/704,464 : UNDER 37 CFR 1.47(a)
Filed: 22 October, 2003 :
Atty Docket No. 06185-145001 :

This is in response to the petition filed under 37 CFR 1.47(a) on 22 October, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Suleman Saya, has refused to sign the reissue declaration. Specifically, petitioners have shown, by the declaration of registered patent attorney Roger S. Borovoy, that a copy of the reissue patent application sent to the last known address of the non-signing inventor was returned as undeliverable. Petitioners also telephoned and E-mailed the non-signin inventor, asking him to sign the declaration, however, he has refused.

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 addresses given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 2100 for examination in due course.

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



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DIW 06-04

Suleman Saya
3196 Dallas Court
Santa Clara CA 95051

In re Application of
Latif et al.
Application No. 10/704,464
Filed: 22 October, 2003
For: Method and Apparatus for Network Interface Card Load Balancing and Port Aggregation

Dear Mr. Saya:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

FISH & RICHARDSON P.C.
3300 DAIN RAUSCHER PLAZA
MINNEAPOLIS MN 55402



10704464

**ADDED PAGE TO DECLARATION BY INVENTORS
FOR SIGNATURE BY JOINT INVENTORS
ON BEHALF OF NONSIGNING INVENTOR WHO REFUSES
TO SIGN OR CANNOT BE REACHED (37 C.F.R. § 1.47(a))**

I. I am an above-named joint inventor and have signed this declaration on my own behalf and also sign this declaration under 37 C.F.R. § 1.47(a) on behalf of the nonsigning joint inventor, particulars for whom are:

Full name of nonsigning inventor: Suleman Saya refuses to sign

Country of citizenship of nonsigning inventor: US

Last known address of nonsigning inventor: 3196 Dallas Court, Santa Clara, California 95051, US

II. Accompanying this declaration are:

- (1) A Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor; and
- (2) The petition fee of \$130.00 (37 C.F.R. § 1.17(i)).

Signatures of joint inventors:

Full name of inventor: Faisal Latif

Inventor's signature: Faisal Latif

Date: 9/26/03

Residence: 48858 Sauvignon Court, Fremont, California 94539, US

Citizen of: US

Post Office Address: same as above

.1/13/2003 EHAILE1 00000121 08884794

01 FC:1460 130.00 OP

Adjustment date: 06/25/2004 AKELLEY

11/13/2003 EHAILE1 00000121 08884794

01 FC:1460 -130.00 OP

06/25/2004 AKELLEY 00000009 10704464

01 FC:1460 130.00 OP

Added Page 1 of 2 to Declaration by Inventors



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OFFICE OF PETITIONS

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

In re Application of :
Latif, et al. :
Application No.: 10/704,464 : ON PETITION
Filing Date: October 22, 2003 :
Attorney Docket No. 06185-145001 :

This is a decision on the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.175, filed April 23, 2007.

The petition is **granted**.

Petitioner requests that the supplemental reissue declaration be accepted without the signature of inventor Latif, as inventor Latif is refusing to sign the declaration. It is noted, that in this case, 37 CFR 1.175 requires the filing of a supplemental reissue declaration signed by all named inventors, yet petitioner has demonstrated that inventor Latif refuses to sign the supplemental reissue declaration. In such a case, Section 1414.01 of the *Manual of Patent Examining Procedure* (MPEP) provides that:

[if] a joint inventor refuses or cannot be found or reached to sign a supplemental oath/declaration, a supplemental oath/declaration listing all the inventors, and signed by all the available inventors may be filed provided it is accompanied by a petition under 37 CFR 1.183 along with the petition fee, requesting waiver of the signature requirement of the non-signing inventor.

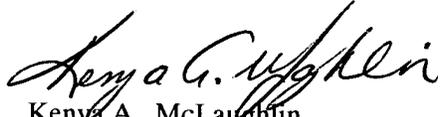
Accordingly, the instant petition will be treated as petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.175 so as to accept the supplemental reissue declaration filed April 23, 2007, without the signature of inventor Latif. The petition is granted, the requirement of 37 CFR 1.175 that all named inventors execute the supplemental reissue declaration is waived as to inventor Latif, and the supplemental reissue declaration without the signature of inventor Latif is acknowledged and made of record.

The application file will be forwarded to Technology Center 2100, GAU 2142 for further processing.

In re Application of Latif, et al.
10/704,464

Page 2

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



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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AUG 29 2008

In re Application of :
Latif, et al. :
Application No.: 10/704,464 : ON PETITION
Filing Date: October 22, 2003 :
Attorney Docket No. 06185-145001 :

This is a decision on the "Petition By Assignee Under 37 CFR 1.183" filed August 12, 2008, which will be treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.67 and 37 CFR 1.175.

The petition is **dismissed**.

Petitioner requests that the supplemental reissue declaration be accepted without the signatures of the joint inventors Latif and Saya as petitioner alleges they cannot be located after diligent effort and are refusing, respectively, to sign the supplemental declaration. In such a case, Section 1414.01 of the *Manual of Patent Examining Procedure* (MPEP) provides that:

[if] a joint inventor refuses or cannot be found or reached to sign a supplemental oath/declaration, a supplemental oath/declaration listing all the inventors, and signed by all the available inventors may be filed provided it is accompanied by a petition under 37 CFR 1.183 along with the petition fee, requesting waiver of the signature requirement of the non-signing inventor.

Accordingly, the instant petition will be treated as petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.175 so as to accept the supplemental reissue declaration filed August 12, 2008, without the signature of inventors Latif and Saya. It is noted that provisions of 37 CFR 1.47 do not apply in this instance and said provisions are only applicable to the original filing of a declaration under 37 CFR 1.63. However, the requirements for establishing that a non-signing inventor has refused, or cannot be located, to sign the supplemental declaration are the same as the requirements of 37 CFR 1.47, as set forth in Section 400 of the Manual of Patent Examining Procedure. Petitioner has not made a showing that inventor Latif cannot be located to sign the supplemental declaration. Further to this point, Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP), provides, in pertinent part, that:

[w]here inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

10/704,464

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

A handwritten signature in cursive script, reading "Kenya A. McLaughlin".

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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

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NOV 24 2008

In re Application of :
Latif, et al. :
Application No.: 10/704,464 : ON PETITION
Filing Date: October 22, 2003 :
Attorney Docket No. 06185-145001 :

This is a decision on the renewed petition filed October 30, 2008, under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by the named inventors in a broadening reissue application.¹

The petition is granted.

BACKGROUND

On October 22, 2003, the present application was filed as an application for reissue of U.S. Patent No. 6,393,483, by inventors Faisal Latif, Pramod Sharma, Suleman, Saya, and Jim Kuhfeld. Inventors Latif and Saya did not execute the original reissue application declaration, but the application was granted status under 37 CFR 1.47 for the non-signing inventors.

During the prosecution of the present application, the Office required a supplemental declaration directed to errors in the original patent which were corrected in the present application after the signing of the original reissue declaration.

According to the declaration supplied by applicant's legal representative, Roger Borovoy, together with the present petition, that inventor Latif could not be located to sign the supplemental declaration after diligent effort to find him and inventor Saya refuses to sign the declaration.

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

DECISION

35 U.S.C. 251, which is directed to reissue, does not address the signature requirements of a declaration in reissue. 37 CFR 1.172 requires that a reissue declaration be made (and signed) by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. 37 CFR 1.175(b)(1), requires that:

“For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit a supplemental oath or declaration stating that every such error arose without any deceptive intention on the part of the applicant.”

37 CFR 1.175(b)(1), taken in conjunction with 37 CFR 1.172, requires a supplemental declaration to be signed by all the inventors. This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signature of all the inventors. *See In re Hayes*, 53 USPQ2d 1222 (Comm’r Pat. 1999).

37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested a waiver of the requirement that the 37 CFR 1.175(b)(1) supplemental declaration be signed by an inventor.

The instant petition is accompanied by an appropriate showing that inventors Latif could not be located after diligent effort and inventor Saya has refused to sign the declaration. Accordingly, the supplemental declaration signed by the other joint inventors will be accepted as though it was signed by all of the joint inventors as required by 37 CFR 1.175(b)(1) taken in conjunction with 37 CFR 1.172. *See* MPEP 602.02. *See In re Hayes, supra*.

CONCLUSION

The present petition to waive 37 CFR 1.172 is granted.

The application is being forwarded to Technology Center Art Unit 2442 for further prosecution.

Please direct any questions related to this decision to the undersigned at (571) 272-3222.



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK, NY 10016

Mail Date: 04/21/2010

Applicant	: Ekaterina Dadachova	: DECISION ON REQUEST FOR
Patent Number	: 7651689	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/704,469	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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Paper No. None

John S. Beulick
Armstrong Teasdale LLP
One Metropolitan Square, Suite 2600
St. Louis MO 63102

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APR 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Christopher M. Pohrer	:	
Application No. 10/704,476	:	DECISION GRANTING
Filed: November 7, 2003	:	PETITION UNDER 37 C.F.R. §1.137(b)
Attorney Docket No. 16285-5	:	
Title: METHOD AND APPARATUS FOR	:	
RETRACTABLE ENCLOSURE	:	

This is a decision on the petition filed January 25, 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 within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed June 15, 2005, which set a shortened statutory period for reply of three (3) months. On August 15, 2005, an amendment was received, and an advisory action was mailed on August 31, 2005. A second after-final amendment was filed on December 14, 2005, along with a five-month extension of time². On January 18, 2006, a second advisory action was mailed. No further responses were received.

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in 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

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.

² It is noted that only a three-month extension of time was available to Applicant. As such, the difference has been refunded to his Deposit Account, as authorized in the petition.

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 25, 2006, along with the petition fee and a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 as well as the associated fee and a statement which is being construed as the proper statement of unintentional delay. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The amendment submitted on December 14, 2005 shall serve as the required submission.

As such, the petition is **GRANTED**.

The Technology Center will be made aware of this decision.

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



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Pauley Petersen & Erickson
Suite 365
2800 West Higgins Road
Hoffman Estates, IL 60195

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OCT 18 2004

OFFICE OF PETITIONS

In re Application of :
Mendenhall and Taylor :
Application No. 10/704,499 : **DECISION GRANTING PETITION**
Filed: November 7, 2003 :
Attorney Docket No. AAI-14306 :

This is a decision on the petition filed August 17, 2004, requesting that the above-identified application be accorded a filing date of November 7, 2003, with 22 pages of the specification, 7 pages of claims, 1 page of abstract, 1 sheet of drawings, and 2 pages of the declaration as part of the original disclosure.

On November 7, 2003, the above-identified application was filed. On June 17, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (the "Notice"), stating that the application had not been accorded a filing date because the specification, claims, drawings were not found with the application papers. The Notice also indicated that the oath or declaration was missing. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on August 17, 2004, applicant filed the present petition, a copy of the complete application papers, and a copy of the Office date-stamped postcard receipt acknowledging receiving 22 pages of the specification, 7 pages of claims, 1 page of abstract, 1 sheet of drawings, and 2 pages of the declaration, along with other items on November 7, 2003.

Upon review of the record, the alleged missing items were not located among the original application papers. The evidence is convincing, however, that the specification, abstract, claims, drawings, and declaration accompanied the original application papers. Therefore, the application, 22 pages of the specification, 7 pages of claims, 1 page of abstract, 1 sheet of drawings, and 2 pages of the declaration was complete on filing and entitled to a filing date of November 7, 2003.

Accordingly, the petition is granted. The petition fee of \$130.00 will be refunded, in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of November 7, 2003, using the 22 pages of the specification, 7 pages of claims, 1 page of abstract, 1 sheet of drawings, and 2 pages of the declaration filed on that date.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petition



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SEP 28 2004

Dean G. Tornabene
4051 Glenco, Unit #8
Marina Del Rey CA 90291

In re Application of :
Tornabene et al :
Serial No.: 10/704,502 :
Filed: November 7, 2003 :
For: Abdominal Exercise Device and :
Method :

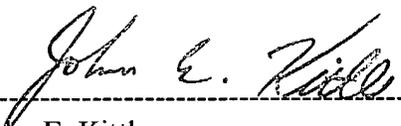
DECISION ON PETITION

This is in response to applicants' Petition filed November 7, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on prospective manufacture.

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

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

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



John E. Kittle
Director
Technology Center 3700/2900



MAILED

FEB 04 2010

OFFICE OF PETITIONS

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

In re Application of :
Gordon A. Ross :
Application No. 10/704,512 : DECISION REFUSING STATUS
Filed: November 6, 2003 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 6441P002 :

This is a decision on the petition filed under 37 CFR 1.47(b) on November 6, 2003.

The petition is **DISMISSED**.

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

The above-identified application was filed on November 6, 2003 naming Gordon A. Ross as the sole inventor, with the instant petition under 37 CFR 1.47 arguing that after presentment with the application, the inventor refused to execute the oath or declaration and by his actions to cooperate with the filing of the instant application.

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

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest, and
- (6) proof of irreparable damage.

The petition is accompanied by a statement that the application papers and declaration were personally presented to the non-signing sole inventor, and that he has verbally refused to execute the declaration. The petition is also accompanied by the petition fee, the last known address for the non-signing inventor and a declaration executed by Mark DiSalle, President of Bionet Systems, LLC, on behalf of Bionet Systems, LLC and in the absence of a signature by the sole inventor, a copy of the CONFIDENTIAL INFORMATION AND INVENTION AND EMPLOYMENT AGREEMENT previously executed by the sole inventor to show proprietary interest and a statement that the application is filed to preserve the applicants rights in the application and to prevent irreparable harm.

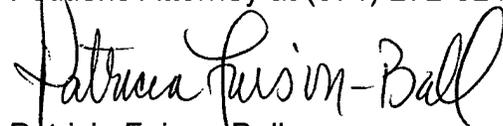
The petition fails however, because petitioners have not provided proof of an assignment signed by the non-signing sole inventor and a valid statement under 37 CFR 3.73(b).

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: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



MAILED

MAR 25 2010

OFFICE OF PETITIONS

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

In re Application of	:
Gordon A. Ross	:
Application No. 10/704,512	: DECISION ACCORDING STATUS
Filed: November 6, 2003	: UNDER 37 CFR 1.47(b)
Attorney Docket No. 6441P002	:

This decision is in response to the request for reconsideration filed February 25, 2010, under 37 CFR 1.47(b).¹

The petition is **GRANTED**,

The above-identified application was filed on November 6, 2003 naming Gordon A. Ross as the sole inventor, with a petition under 37 CFR 1.47 arguing that after presentment with the application, the inventor refused to execute the oath or declaration and by his actions to cooperate with the filing of the instant application.

The petition was accompanied by a statement that the application papers and declaration were personally presented to the non-signing sole inventor, and that he verbally refused to execute the declaration. The petition was also accompanied by the petition fee, the last known address for the non-signing inventor and a declaration executed by Mark DiSalle, President of Bionet Systems, LLC, the assignee by assignment from Gordon A. Ross, on behalf of Bionet Systems, LLC and in the absence of a signature by the sole inventor, a copy of the CONFIDENTIAL INFORMATION AND INVENTION AND EMPLOYMENT AGREEMENT previously

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

executed by the sole inventor to show proprietary interest and a statement that the application is filed to preserve the applicants rights in the application and to prevent irreparable harm.

The petition was dismissed in a decision mailed February 4, 2010 because the assignee had not established its right to take action in accordance with 37 CFR 3.73(b).

In response thereof, petitioner has filed a statement under 37 CFR 3.73(b).

All requirements under 37 CFR 1.47(b) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to the Publishing Division.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink that reads "Patricia Faison-Ball". The signature is written in a cursive style with a large, looped initial "P".

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/704,515	11/07/2003	Frank Yen-Jer Shih	AVERP3230USA	5188
	7590 04/09/2007		EXAMINER	
Armand P. Boisselle Renner, Otto, Boisselle & Sklar, LLP 1621 Euclid Avenue, Nineteenth Floor Cleveland, OH 44115-2191			SHOSHO, CALLIE E	
			ART UNIT	PAPER NUMBER
			1714	
			MAIL DATE	DELIVERY MODE
			04/09/2007	PAPER

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



Mailed:

In re Application of:
Shih et al.
Serial No.: 10/704,515
Filed: November 7, 2003
For: Ink-Receptive Coatings, Composites And
Adhesive-Containing Facestocks And Labels

DECISION ON PETITION

This is a decision on the Request filed March 13, 2007 to correct inventorship under 37 CFR §1.48(b). It is noted that the applicant has met the requirements of (i) a Request including a statement identifying Brian Doods, Vicki LeVan and Ken Kaudo who are being deleted and acknowledging that they are not the inventors of the invention now being claimed and (ii) the processing fee set forth in 37 CFR §1.17(i). The Request is signed by Armand P. Boisselle who qualifies as a party under 37 CFR § 1.33(b)(1).

The petition is GRANTED.

A handwritten signature in cursive script that reads "Callie E. Shosho".

Callie E. Shosho
Primary Examiner
Art Unit 1714

Armand P. Boisselle
Renner, Otto, Boisselle & Sklar, LLP
1621 Euclid Avenue, Nineteenth Floor
Cleveland OH 44115-2191



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

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

JUL 28 2009

OFFICE OF PETITIONS

In re Patent No. 7,527,611 : DECISION ON REQUEST FOR
Patrick J. Sweeney : RECONSIDERATION OF
Issue Date: May 5, 2009 : PATENT TERM ADJUSTMENT
Application No. 10/704,526 : AND NOTICE OF INTENT TO
Filed: November 7, 2003 : ISSUE CERTIFICATE
Attorney Docket No. 029812-0106 : OF CORRECTION

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705", filed July 1, 2009, which is properly treated under 37 CFR 1.705(d). Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from one thousand one hundred ninety-five (1,195) days to one thousand five hundred forty-nine (1,549) days.

Preliminarily, applicants request that the Office defer or delay a decision on this request for reconsideration until a final decision has been rendered in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008), which is now on appeal at the U.S. Court of Appeals for the Federal Circuit, under Federal Circuit Docket No. 2009-1120. However, the Office notes that there is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The request for reconsideration of patent term adjustment is GRANTED to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised patent term adjustment of one thousand one hundred sixty-five (1,165) days.

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.

On May 5, 2009, the above-identified application matured into U.S. Patent No. 7,527,611 with a revised patent term adjustment of 1,195 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).

Initially, patentees direct the Office's attention to the filing of an Amendment under 37 CFR § 1.312 on April 6, 2009. It appears that patentees believe that they should be assessed a period of delay of 30 days, pursuant to 37 CFR 1.704(c)(10), for the filing of the Amendment under 37 CFR § 1.312.

37 CFR 1.704(c)(10) provides:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

In this instance, it is undisputed that patentees filed the Amendment under 37 CFR § 1.312 after the mailing of the notice of allowance. The Office did not address the Amendment under 37 CFR § 1.312 before the issuance of the patent. Thus, the period of adjustment should have been reduced by the lesser period of 30 days, beginning on the date the Amendment was filed, April 6, 2009, and ending on the date the patent issued, May 5, 2009. Accordingly, a period of reduction of 30 days will be entered.

Further, 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 1,549 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 assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." 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 526 days as they occur on the same calendar days in both periods. It appears that patentees maintain that this overlapping period is the 526 days running from November 8, 2006 to April 16, 2008. Patentees assert that the total non-overlapping PTO delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) is 1,579 days as these periods do not occur on the same days. Given the 30 days of applicant delay, patentees assert entitlement to 1,549 days of patent term adjustment.

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)*¹ 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

¹ Likewise, 37 CFR 1.703(f) provides that:

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

permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). 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.

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 date of filing of the application under 35 U.S.C. 111(a) on November 7, 2003, and ending on the date of issuance of the patent on May 5, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1),² 1,195 days³ of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b),⁴ 910 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

² The Office did not mail a Restriction Requirement until April 16, 2008, 14 months and 1,195 days after the application was filed on November 7, 2003.

³ 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

⁴ 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.

All of the 910 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 1,195 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 910 days and the 1,195 days is neither permitted nor warranted. 1,195 days is the actual number of days issuance of the patent was delayed.

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

In view of the additional period of reduction pursuant to 37 CFR 1.704(c)(10), the patent term adjustment indicated on the patent should be 1,165 days (1,195 days of Office delay - 30 days of applicant delay).

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

The patent 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 1,165 days.

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,527,611 B2

DATED : May 5, 2009

INVENTOR(S) : Sweeney

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 (1195) days

Delete the phrase "by 1195 days" and insert – by 1165 days--



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

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AUG 23 2006

Director's Office
Office of Patent Publication

PING-TUNG SU
P.O. BOX 44-2049
TAIPEI 10668 TW TAIWAN

In re Application of :
SU, PING-TUNG :
Application No. 10/704,581 : **DECISION ON PETITION**
Filed: November 12, 2003 :
Attorney Docket No. TB05P0146US :

This is a decision on the Petition To Withdraw Holding Of Abandonment Under 37 CFR 1.181, received in the United States Patent & Trademark Office (USPTO) via facsimile transmission on July 17, 2006.

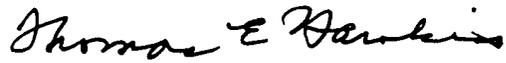
The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed March 13, 2006. The Notice of Abandonment, mailed on June 26, 2006 indicates, "The submitted fee of \$0 is insufficient. A balance of \$1,000 is due."

Petitioner asserts that at all times between June 12, 2006 and the mailing of the Notice of Abandonment on June 26, 2006, adequate funds were maintained in their deposit account sufficient to cover the required fees. In support of this assertion petitioner has submitted copies of pages of their June monthly statement for Deposit Account 50-1874.

Part B – Fee(s) Transmittal received on June 12, 2006, authorized the Issue Fee and Publication Fee be charged to Deposit Account No. 50-1874. On June 12, 2006, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fees. The Deposit Account Maintenance record provided by the Office of Finance indicates that the Deposit Account balance amount was \$.00.

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 137.

A handwritten signature in cursive script that reads "Thomas E. Hawkins".

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

BRUCE H. TROXELL
TROXELL LAW OFFICE PLLC
5205 LEESBURG PIKE, SUITE 1404
FALLS CHURCH, VA 22041



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Ping-Tung SU
P.O. Box 44-2049
TAIPEI 10668 TW TAIWAN

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MAR 19 2007

In re Application of

Ping-Tung Su

OFFICE OF PETITIONS

Application No. 10/704,581

DECISION ON PETITION

Filed: November 12, 2003

Attorney Docket No. TB05P0146US

This is a decision on the petition under 37 CFR §1.137(b), October 4, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of \$700.00 and publication fee of \$300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed March 13, 2006. The Notice set forth a three (3) month statutory period for reply. A proper response was received within the allowable period. Accordingly, this application became abandoned on June 14, 2006. A Notice of Abandonment was mailed on June 26, 2006.

The issue fee of \$700.00 and publication fee of \$300.00 were received on October 4, 2006.

Form PTOL-85B was received on October 4, 2006, and is made of record.

The address cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address of record, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application is being forwarded to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc: Bruce Troxell
Troxell Law Office
5205 Leesburg Pike
Suite 1404
Falls Church, VA 22041



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JAN 27 2006

OFFICE OF PETITIONS

**MCDERMOTT, WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096**

In re Application of	:	
Akio Misaka et al	:	
Application No. 10/704,594	:	ON PETITION
Filed: November 12, 2003	:	
Attorney Docket No. 60188-651	:	

This is a decision on the petition, filed January 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 December 1, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 2825 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 : January 27, 2006
TO : Director, Office of Patent Publication
FROM : Office of the Deputy Commissioner
for Patent Examination Policy
SUBJECT : Withdrawal from Issue of

COPY MAILED
JAN 27 2006
OFFICE OF PETITIONS

Applicant(s) : Akio Misaka et al
Application No. : 10/704,594
Filed : November 12, 2003

The above-identified application has been assigned Patent No. 7,000,217 and an issue date of February 14, 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 14, 2006:

"All reference to Patent No. 7,000,217 to Akio Misaka et al of Japan for METHOD FOR PLANNING LAYOUT FOR LSI PATTERN, METHOD FOR FORMING LSI PATTERN AND METHOD FOR GENERATING MASK DATA FOR LSI appearing in the Official Gazette of February 14, 2006, should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03, (FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038)
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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 Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 124 or 105

Steven M. Rabin
Rabin & Berdo, P.C.
1101 14th street, N.W., Suite 500
Washington, DC 20005

ej



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RABIN & BERDO, P.C.
Suite 500
1101 14 Street, N.W.
Washington, DC 20005

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DEC 07 2007

OFFICE OF PETITIONS

In re Patent No. 7,235,428 :
Issue Date: June 26, 2007 :
Application No. 10/704,608 :
Filed: November 12, 2003 :
Patentee(s): Kazumasa Tanida, et. al. :

ON PETITION

This is a decision on the petition, filed July 30, 2007, which is being treated as a request under 37 CFR 3.81¹, to correct the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

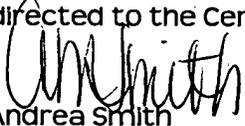
It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

The name of the **second** assignee will be corrected from "Mitsubishi Denki Kabushiki Kaisha" to "Renesas Technology Corporation".

Since the requirements of 37 CFR 3.81 have been met, the request under 37 CFR 3.81 is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

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


Andrea Smith
Petitions Examiner
Office of Petitions

¹See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.



STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
Suite 850
1615 L. Street, N.W.
Washington DC 20036

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OFFICE OF PETITIONS

In re Application of :
Rimbault et al. :
Application No. 10/704,651 :
Filed: November 12, 2003 :
Title: Method and Device For Detecting Pilot :
Induced Oscillations in an Aircraft :

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed July 25, 2006.

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

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of June 30, 2005. An amendment and drawings were filed on September 23, 2005. In response to the amendment a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on September 29, 2005 which set an extendable reply period of one month. A reply to the Notice of Non-Compliant Amendment was not received. This application became abandoned on October 1, 2005. A Notice of Abandonment was mailed on June 7, 2006.

Petitioner asserts that the Notice of Non-Compliant Amendment mailed September 29, 2005 was never received. Petitioner states a search of the file jacket and docket records confirms the Office Communication was not received. In support of petitioner's contention, a copy of the docket records has been provided.

Since petitioner has submitted a reply to the Notice of Non-Compliant Amendment with the instant petition a re-mailing of Notice is not required. This application is being forwarded to Art Unit 3661 for review of the amendment of the drawings submitted on July 25, 2006

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

A handwritten signature in black ink, appearing to read "Charlema R. Grant". The signature is fluid and cursive, with a long horizontal stroke at the end.

Charlema R. Grant
Petitions Attorney
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Steven B. Kelber
Berenato, White & Stavish
6550 Rock Spring Drive
Suite 240
Bethesda MD 20817

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AUG 19 2009

OFFICE OF PETITIONS

In re Application of :
Masaki Nakagawa, et al. :
Application No. 10/704,652 : DECISION ON PETITION
Filed: November 12, 2003 :
Attorney Docket No. TUAT-0001- :
DIV2 :

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 6, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 7, 2006. The Notice of Abandonment was mailed January 11, 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 (3).

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

- (1) the delay in reply that originally resulted in the abandonment;
- (2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and
- (3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

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

As to Period (1):

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

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional

information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 3 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on September 7, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as STEVENS, DAVIS, MILLER & MOSHER, L.L.P was counsel of record at the time of abandonment, STEVENS, DAVIS, MILLER & MOSHER, L.L.P should explain why this application became abandoned while it was under their control and what efforts made to further reply of itself and with whom this matter was discussed outside of STEVENS, DAVIS, MILLER & MOSHER, L.L.P. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), STEVENS, DAVIS, MILLER & MOSHER, L.L.P and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at, STEVENS, DAVIS, MILLER & MOSHER, L.L.P and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due

to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at STEVENS, DAVIS, MILLER & MOSHER, L.L.P. and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

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

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

Any renewed petition may be addressed as follows:

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

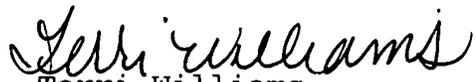
By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

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

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

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

A handwritten signature in cursive script that reads "Terri Williams".

Terri Williams
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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David W. Highet, Esq.
Becton, Dickinson and Company
1 Becton Drive
Franklin Lakes, NJ 07417-1880

Mail Date: 04/21/2010

Applicant : Richard M. Ivey : DECISION ON REQUEST FOR
Patent Number : 7645573 : RECALCULATION of PATENT
Issue Date : 01/12/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/704,666 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/12/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **842** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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P.O. BOX 15035
CRYSTAL CITY STATION
ARLINGTON VA 22215

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JUN 16 2008

In re Application of :
Brett Leimkuhler :
Application Number: 10/704682 : ON PETITION
Filing Date: 11/12/2003 :
Attorney Docket Number: :
23375.00 :

This is a decision on the paper entitled "RECONSIDERATION OF HOLDING OF ABANDONMENT," filed on January 28, 2008, which is treated as a request to withdraw the holding of abandonment.

The petition is **dismissed**.

The application became abandoned on September 4, 2006, for failure to timely file an appeal brief in compliance with 37 CFR 41.37.

A review of the record reveals that:

On November 12, 2003, the subject application was filed.

On April 24, 2006, a final Office action was mailed, setting a three (3) month shortened statutory period for reply.

On July 13, 2006, a Notice of Appeal was filed.

On July 14, 2006, an Appeal Brief was filed.

On August 3, 2006, a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed, stating that the Appeal Brief filed on July 14, 2006, is defective for failure to comply with one or more provisions of 37 CFR 41.37.

On August 7, 2006, a supplemental Appeal Brief was filed.

On November 27, 2007, a Notice of Abandonment was mailed, stating that the Appeal Brief filed on August 7, 2006, failed to meet the requirements of 37 CFR 41.37 because each independent claim is not mapped separately. The Notice also stated that the appeal stands dismissed as mandated by 37 CFR 41.37(d), and that the case is abandoned as possessing no allowed claims.

Petitioner asserts that the holding of abandonment should be withdrawn. Petitioner argues, in pertinent part:

Since the above-mentioned amended brief clearly appears to be *bona fide*, Applicant should have been notified of the particular reason for non-compliance and given a set time period within which to address a readily correctable matter. Certainly the Office should not have allowed more than fifteen months to elapse before issuing such a notification and dismissing the appeal without affording Applicant an opportunity to take corrective action. It should be noted that the time periods set forth in 37 CFR 41.37 are extendable under the provisions of 37 CFR 1.136.

Petitioner's argument has been considered, but is not persuasive. At the outset, 37 CFR 41.37(d) states:

If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. **If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.**

(emphasis added)

As such, applicant was afforded an opportunity to correct his Brief by the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed on August 3, 2006. However, the Appeal Brief filed on August 7, 2006, did not overcome all of the reasons for non-compliance stated in the notification, as stated in the Notice of Abandonment. Since applicant failed to provide a brief which overcame all of the stated reasons for non-compliance, the appeal is properly held dismissed.

Furthermore, there is no provision in the rules for dealing with a "bona fide" appeal brief. However, by way of comparison, it is noted that, 37 CFR 1.135(c) states, with regard to responding to an Office action, 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.

Further, in this regard, with regards to the delay between the submission of the amended brief and the mailing of the Notice of Abandonment, while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting timely correction, it is under no obligation to do so. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994) (while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction). While the delay in notifying applicant that the second brief is defective is regretted, applicant, not the Office, is ultimately responsible for the prosecution of his application.

As such, the appeal was properly held dismissed, and the application abandoned.

The petition is **DISMISSED**.

Petitioner may wish to consider filing a petition to revive under 37 C.F.R. 1.137(b).

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision. **This time period may not be extended.** 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

Application No. 10/704682

4

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

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

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/10/06

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: **10704689** Patent No.: **6993274**

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

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

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



Angela Green
Certificates of Correction Branch
703.308.9380 ext. *123*

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

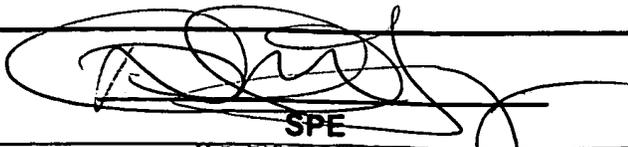
Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____



SPE

2852
Art Unit



MCDERMOTT WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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NOV 16 2005

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Hirotsugu Honda :
Application No. 10/704,697 :
Filed: November 12, 2003 :
Attorney Docket No. 60188-699 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 15, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This matter is being referred to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.


Wan Laymon
Petitions Examiner
Office of Petitions

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 7/14/05

meb
Paper Number: _____

In re application of
Shinji Saito, et al

Serial No. 10/704,717
Filed: November 12, 2003
For: Magnetic Disc Medium

DECISION ON
PETITION

This is a response to the PETITION UNDER 37 C.F.R. 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT, filed May 16, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of May 2, 2005 for failure to timely respond to the Notice of Allowance mailed December 22, 2004, be withdrawn. The petitioner asserts that the Notice of Allowance mailed December 22, 2004 was not received by the applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c) which states:

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The evidence presented is insufficient to establish that the Notice of Allowance was not received by the petitioner. The evidence provided includes a statement by the petitioner that the Office Action was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice of Allowance mailed December 22, 2004 was not received. Also provided



UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

is a copy of the docketing record of March 22, 2005, where the Office Action would have been posted had it been timely received, as this is where the Issue Fee Payment would have been due. The evidence provided is insufficient because the Notice of Allowance was mailed on December 28, 2004, which indicates that the Issue Fee was due on March 28, 2005, contrary to the petitioner's statements. Therefore, a copy of the docketing record of March 22, 2005 is not the appropriate evidence of where the Issue Fee Payment would be due in this application. A copy of the docketing record of March 28, 2005 would be the appropriate evidence.

Therefore, the Notice of Abandonment is hereby maintained, and the application remains abandoned.

The Petition is **DENIED**.



Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

MARK BOLAND
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVE., N.W.
SUITE 800
WASHINGTON, DC 20037



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

Mailed: 11/17/05
In re application of
Shinji Saito, et al.
Serial No. 10/704,717
Filed: November 12, 2003
For: Magnetic Disc Medium

DECISION ON
PETITION

This is a response to the PETITION UNDER RULE 37 C.F.R. 1.181(a) TO WITHDRAW NOTICE OF ABANDONMENT, filed August 4, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed May 2, 2005, be withdrawn since the applicant did not receive the Notice of Allowance mailed December 28, 2004. The initial petition was denied because applicant failed to submit a copy of their docketing report.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee). Applicant has submitted a copy of their docketing report.

The Petition is **GRANTED**. The abandonment is withdrawn and a new notice of allowance will be mailed

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Mark Boland
Sughrue Mion, PLLC
2100 Pennsylvania Ave, NW
Suite 800
Washington, DC 20037



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MAILED

JUN 05 2009

OFFICE OF PETITIONS

In re Patent No. 7,463,886 :
Issued: December 9, 2008 :
Application No. 10/704,744 : PATENT TERM ADJUSTMENT
Filed: November 12, 2003 :
Dkt. No.: 088245-0121 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R §1.705", filed January 26, 2009. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(d).

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

The above-identified application matured into U.S. Pat. No. 7,463,886 on December 9, 2008. The patent issued with a PTA 545 days. The 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 be increased from 545 days to 1,010 days.

Patentees request reconsideration 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 contend that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day.

Patentees maintain that the period of adjustment due to the three year delay by the Office, pursuant to 37 CFR 1.702(b), of 465 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 616 days do not overlap as these periods do not occur on the same day. The 465-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on November 12, 2003 and a request for continued examination having been issued on February 20, 2008. Patentees assert that in addition to this 465-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 616 days.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to

conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of three years delay and the period of examination delay, to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the three year delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1,081 days (the sum of the period of three year delay (465 days) and the period of examination delay (616 days), reduced by zero days of overlap). As such, patentees assert entitlement to a patent term adjustment of 1,010 days (465 days *plus* 616 days *less* zero days of overlap *less* 71 days of applicant delay).

The Office agrees that as of the time of filing of the request for continued examination on February 20, 2008, the application had been pending three years and 465; over three year time ceased accruing upon submission of the request for continued examination. The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 616 days is correct. At issue is whether patentees should accrue an additional 465 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 616 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 465 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. S14,718¹.

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, November 12, 2003, to the date the patent issued on December 9, 2008. Prior to the issuance of the patent, 616 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application.

At the time of filing of the request for continued examination on February 20, 2008, the application had been pending three years and 465 days. However, the Office did not delay 465 days and then delay an additional 616 days. Accordingly, 616 days of patent term adjustment (not 616 days and 465 days) was properly entered because the entire period of delay of 465 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 616 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted.

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

The Office acknowledges submission of the required application fee of \$200.00. See, 37 CFR 1.18(e). The request for refund of the required application fee is hereby DISMISSED. Submission of the application fee is a prerequisite prior to treatment on the merits of any application for patent term adjustment.

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



Alesia M. Brown
Petitions Attorney
Office of Petitions

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



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OFFICE OF PETITIONS

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In re Patent No. 7,463,886 : DECISION ON APPLICATION FOR
Issued: December 9, 2008 : PATENT TERM ADJUSTMENT and
Application No. 10/704,744 : NOTICE OF INTENT TO ISSUE
Filed: November 12, 2003 : CERTIFICATE OF CORRECTION
Dkt. No.: 088245-0121 :

This is a decision on the petition filed on July 29, 2009, which is being treated as a petition under 37 CFR 1.181 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 1,010 days. The petition is deemed timely, having been filed within two months of the mail date of the decision on petition mailed September 21, 2009. See, 37 CFR 1.181(f).

The petition to correct the patent term adjustment indicated on the above-identified patent 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 November 13, 2006 and ends on February 19, 2008, the day before the RCE was filed, and not February 20, 2008, the day of filing of the RCE as calculated by patentees. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 464 days not 465 days. As such, the correct patent term adjustment is 1,009 days, not 1,010 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. See 37 CFR 1.323(a)(4).

Patentees also request that a decision on this request for reconsideration of patent term adjustment be deferred or delayed. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance. Accordingly, the request to hold in abeyance a decision on the merits of the instant application for patent term adjustment is **DISMISSED.**

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

The application is being forwarded to the Certificates of 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 1,009 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,463,886 B2

DATED : December 9, 2008

DRAFT

INVENTOR(S) : Salokannel, 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 545 days

Delete the phrase "by 545 days" and insert -- by 1,009 days --



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Paper No.

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WASHINGTON, DC 20036

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JUL 02 2004

OFFICE OF PETITIONS

In re Application of :
Lee et al. :
Application No. 10/704,752 : DECISION ON PETITION
Filed: November 12, 2003 :
Attorney Docket No. 102-1006 :
:

This is a decision on the "PETITION FOR GRANT OF FILING DATE OF DATE APPLICATION WAS DEPOSITED AT THE U.S.P.T.O.," filed June 3, 2004. Petitioners request that the Office accord the above-identified application a filing date of November 12, 2003.

Application papers in the above-identified application were deposited on November 12, 2003. However, on July 1, 2004, the Initial Patent Examination Division mailed applicants a NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION. Applicants were thereby notified that the application papers had not been accorded a filing date because the application was deposited without drawings.

In response, applicants filed the instant petition (and petition fee). Applicants assert that the application is entitled to a filing date of November 12, 2003, for the reason that this application was in fact deposited on November 12, 2003 with twelve pages of drawings, including Figures 1-6, 7A-7E and 8. In support thereof, applicants submitted a copy of their return postcard from the USPTO.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioners' postcard receipt reveals that: 1) it was date stamped as received in the USPTO on November 12, 2003, and the items filed therewith were assigned Application No. 10/704752; 2) it specifically identifies the items being filed, including "12 PAGES OF DRAWINGS (FIGS. 1-6, 7A-E, 8)" and 3) it lacks any annotation of non-receipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the 12 sheets of drawings, were filed on November 12, 2003.

Accordingly, the petition is **GRANTED**.

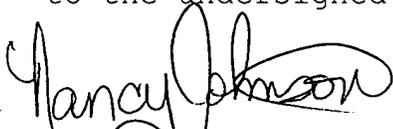
Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 50-2827, as authorized.

The Office of Initial Patent Examination (OIPE) has been advised of this decision, and should, therefore:

- process this application with a filing date of November 12, 2003 using the application papers received in the Office and presently accorded that date; and the 12 sheets of drawings re-supplied on petition filed June 3, 2004; and
- indicate in Office records that 12 sheet of drawings were present in the application on filing.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0309.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



Paper No.

PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

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JUN 01 2004

OFFICE OF PETITIONS

In re Application of :
Ivey et al. :
Application No. 10/704,758 : DECISION ON PETITION
Filed: November 12, 2003 :
Attorney Docket No. 020187.0225PTUS:

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.53(e)," filed April 19, 2004, requesting acknowledgment that Figure 4 of the Drawings was deposited in the United States Patent and Trademark Office (PTO) with the application papers filed on November 12, 2003.

Application papers in the above-identified application were deposited on November 12, 2003. However, on February 25, 2004, the Initial Patent Examination Division mailed a "NOTICE OF OMITTED ITEMS IN A NONPROVISIONAL APPLICATION," notifying applicants that the application papers had been accorded a filing date; however, figure 4 described in the specification appeared to have been omitted.

In response, petitioners timely filed the instant petition. Petitioners state that the electronic file wrapper of the present application, accessed through Patent Application Information Retrieval on April 5, 2004, shows that both Figure 4A and Figure 4B were filed with the application (copy of PAIR printout supplied). Applicants contend that figure 4 was not omitted. In further support of their contention that all drawing sheets were present on filing, petitioners submit a date-stamped postcard.

The petition is **GRANTED**. In addition, the "Notice of Omitted Items" mailed February 25, 2004, is **WITHDRAWN**.

A review of the application as filed confirms that figures 4A and 4B were present on filing. Petitioners acknowledge that the application as filed contained drawing figures labeled 4A and 4B, but the specification as filed referenced Figure 4. (Petitioners submit a preliminary amendment to correct the specification to reference Figures 4A and 4B rather than "4".)

Where drawings are present in the application, but a figure referenced in the specification appears to have been omitted,

applicants should normally be mailed a "Notice of Omitted Items." However, in this instance, applicants should not even have been mailed a "Notice of Omitted Items." MPEP §601.01(g) provides that:

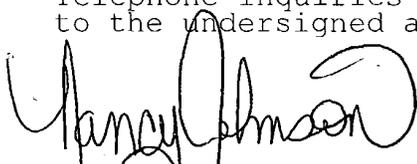
Applications are often filed with drawings with several views of the invention where the views are labeled using a number-letter combination, e.g., Fig. 1A, Fig. 1B, and Fig. 1C. OIPE will not mail a "Notice of Omitted Item(s)" if a figure which is referred to in the specification by a particular number cannot be located among the drawings, if the drawings include at least one figure labeled with that particular number in combination with a letter. For example, if the drawings show Figures 1A, 1B, and 1C and the brief description of the drawings refers only to Figure 1, this is an error in the specification which must be corrected, rather than an application filed without all figures of drawings.

In view thereof, no petition fee is required and none has been charged.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is to be processed with a filing date of November 12, 2003, including indication in USPTO records that 11 sheets of drawings were present on filing, including figures 4A and 4B.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0309.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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In re application of	:	DECISION ON PETITION
Anthony John Guerra	:	TO MAKE SPECIAL
Application No. 10/704,763	:	(ACCELERATED
Filed: November 12, 2003	:	EXAMINATION)
For: EDUCATION INSTITUTION SELECTION	:	
SYSTEM AND METHOD	:	

This is in response to the petition filed on June 7, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

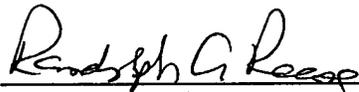
Applicants' petition fails to adequately meet requirements (B) above. Regarding item (B), the petition does not specifically state that all claims are directed to a single invention, or offer an election without traverse if the Office determines that all claims are not directed to a single invention.

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

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, PO Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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



Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dew: 10/13/05



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DEC - 2 2005

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In re application of	:	DECISION ON PETITION
Anthony John Guerra	:	TO MAKE SPECIAL
Application No. 10/704,763	:	(ACCELERATED
Filed: November 12, 2003	:	EXAMINATION)
For: EDUCATION INSTITUTION SELECTION	:	
SYSTEM AND METHOD	:	

This is in response to the renewed petition filed on November 18, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have now been met, the petition is **GRANTED**.

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

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

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



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

KJD/dew: 12/01/05



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UNITED STATES DEPARTMENT OF COMMERCE
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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: B. Thomas Barker	: DECISION ON REQUEST FOR
Patent Number	: 7575588	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/704,767	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **264** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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MAR 06 2009

OFFICE OF PETITIONS

In re Application of :
Samuel N. Zellner, et. al. :
Application No. 10/704,775 : DECISION ON PETITION
Filed: November 12, 2003 :
Attorney Docket No. BS00-031- :
CON :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 3, 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 file a proper reply to the non-final Office action mailed January 9, 2006, which set a statutory period for reply of three months. No extension of time under 37 CFR 1.136 was obtained. Accordingly, the application became abandoned on April 10, 2006.

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

information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

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

- (1) the delay in reply that originally resulted in the abandonment;
- (2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and
- (3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

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

As to Period (1):

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

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the

burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on April 10, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Pillsbury Winthrop Shaw Pittman, LLP was responsible for this application at the time of abandonment, they should explain why this application became abandoned while it was under their control and what efforts was made to reply and with whom this matter was discussed outside of Pillsbury Winthrop Shaw Pittman, LLP. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from the responsible persons at Pillsbury Winthrop Shaw Pittman, LLP and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons at Pillsbury Winthrop Shaw Pittman, LLP and any responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Kenyon & Kenyon and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

(A) the date that the applicant first became aware of the abandonment of the application; and

(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

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

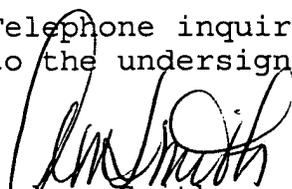
Any renewed petition may be addressed as follows:

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

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

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

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


Andrea Smith
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

MAILED

MAY 06 2009

OFFICE OF PETITIONS

In re Application of :
Samuel N. Zellner, et. al. :
Application No. 10/704,775 : DECISION ON PETITION
Filed: November 12, 2003 :
Attorney Docket No. BS00-031-CON :

This is a decision on the renewed petition under 37 CFR 1.181 (no fee), filed May 4, 2009, requesting withdrawal of the holding of abandonment in the above-identified application.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Paul E. Knowlton 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. If Mr. Knowlton desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Petitioner states in the present petition that the non-final Office action mailed January 9, 2006 had not been received despite a change of address and new power of attorney filed on August 17, 2004.

A review of the written record indicates an irregularity in the mailing of the non-final Office action of January 9, 2006. In this regard, the Office received a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address on August 17, 2004; however, Office records were not updated to reflect this new change of address. Accordingly, as the Notice was mailed to an incorrect address, the petition is **GRANTED** and the holding of abandonment is hereby withdrawn.

It is noted that a Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on November 3, 2008. Unfortunately, an RCE does not apply to an application unless

prosecution in the application is closed. Since the RCE filed on November 3, 2008 is considered as improper, the \$810 fee will be credited back to the credit card.

The application file is being referred to Technology Center Art Unit 2617, for appropriate action by the Examiner in the normal course of business on the amendment filed on November 3, 2008.



Andrea Smith
Petitions Examiner
Office of Petitions

cc: Paul E. Knowlton
Parks Knowlton, LLC
1117 Perimeter Center West
Suite E402
Atlanta, GA 30338



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P. O. Box 1450
Alexandria, VA 22313-1450
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WESTERMAN HATTORI DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

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OCT 13 2006
OFFICE OF PETITIONS

In re Application of :
Takashi Katsuki et al :
Application No. 10/704,778 :
Filed: November 12, 2003 :
Attorney Docket No. 032100 :

ON PETITION

This is a decision on the petition filed, October 4, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

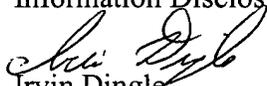
The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 3, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This matter is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the 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).



BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

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OCT 03 2005

OFFICE OF PETITIONS

In re Application of :
Chin Ming Cheng, et al. :
Application No. 10/704,799 :
Filed: November 12, 2003 :
Attorney Docket No. CHEN3600/EM :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 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 March 15, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 16, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



SUGHRUE MION
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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MAR 02 2006

OFFICE OF PETITIONS

In re Application of :
Shinji Saito et al :
Application No. 10/704,832 :
Filed: November 12, 2003 :
Attorney Docket No. Q78429 :

ON PETITION

This is a decision on the petition, filed February 28, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 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 1773 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

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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : March 2, 2006
TO : Director, Office of Patent Publication
FROM : Office of the Deputy Commissioner
for Patent Examination Policy
SUBJECT : Withdrawal from Issue of

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MAR 02 2006

OFFICE OF PETITIONS

Applicant(s) : Shinki Saito et al
Application No. : 10/704,832
Filed : November 12, 2003

The above-identified application has been assigned Patent No. 7,014,926 and an issue date of March 21, 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 March 21, 2006:

"All reference to Patent No. 7,014,926 to Shinki Saito et al of Japan for MAGNETIC DISC MEDIUM AND METHOD FOR RECORDING AND REPRODUCING THE SAME appearing in the Official Gazette of March 21, 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



**PATENT DOCKET ADMINISTRATION
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P.O. BOX 902 (E4/N119)
BLDG E1 M S E150
EL SEGUNDO CA 90245-0902**

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APR 11 2005

OFFICE OF PETITIONS

In re Application of :
Cynthia Daniell et al :
Application No. 10/704,841 :
Filed: November 10, 2003 :
Attorney Docket No. PD-03W009 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed June 25, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 28, 2004.

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

This matter is being referred to Patent Publication.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN, TX 78720

Mail Date: 04/20/2010

Applicant : David L. McClintock : DECISION ON REQUEST FOR
Patent Number : 7617341 : RECALCULATION of PATENT
Issue Date : 11/10/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/704,844 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/10/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1765** 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
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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant : Roger Lagadec : DECISION ON REQUEST FOR
Patent Number : 7590547 : RECALCULATION of PATENT
Issue Date : 09/15/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/704,859 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/10/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1059** 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.



SUSAN KING
304 S. EAGLESON ROAD
BOISE, ID 83705

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APR 12 2007

OFFICE OF PETITIONS

In re Application of :
Susan Clark King :
Application No. 10/704,860 : DECISION ON PETITION
Filed: November 7, 2003 :
For: DISPOSABLE OR WASHABLE CAR :
SEAT LINER :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 25, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 1, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on August 2, 2006. A Notice of Abandonment was mailed on January 9, 2007.

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(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). The instant petition lacks item (1).

As noted above, 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 June 1, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE), \$395 filing fee, 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)(b). Since the amendment submitted does not *prima facie* place the application in condition for allowance (see attached courtesy copy of the Examiner's Advisory Action), the reply required must be a Notice of Appeal (and appeal fee), an RCE (with submission and \$395 filing fee), or the filing of a continuing application under 37 CFR 1.53(b).

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

By Mail: Mail Stop PETITION
 Commissioner for Patents
 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) 272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Courtesy Copy of Examiner's Advisory Action



UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUSAN KING
304 S. EAGLESON ROAD
BOISE, ID 83705

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of :
Susan Clark King :
Application No. 10/704,860 : DECISION ON PETITION
Filed: November 7, 2003 :
For: DISPOSABLE OR WASHABLE CAR :
SEAT LINER :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 25, 2007, to revive the above-identified application.

The petition is again **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 1, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on August 2, 2006. A Notice of Abandonment was mailed on January 9, 2007.

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(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). The instant petition lacks item (1).

The amendment received on May 2, 2007 again fails to *prima facie* place this application in condition for allowance for the reasons set out in the accompanying courtesy copy of the Examiner's Advisory Action. Accordingly, since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), an RCE (with submission and \$395 filing fee), or the filing of a continuing application under 37 CFR 1.53(b).

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

By Mail: Mail Stop PETITION
 Commissioner for Patents
 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) 272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Courtesy Copy of Examiner's Advisory Action

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/704,860	Applicant(s) KING, SUSAN CLARK
Examiner Melanie J. Hand	Art Unit 3761

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) The period for reply expires 3 months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) They raise the issue of new matter (see NOTE below);
- (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) They present additional claims without canceling a corresponding number of finally rejected claims.
- NOTE: See *Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. Applicant's reply has overcome the following rejection(s): _____.
6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. Other: _____.

Continuation of 3. NOTE: Applicant changed the scope of the independent claim 1 such that the claim now contains open ended "comprising" claim language as opposed to the previous closed-ended "consisting of" claim language. Further, applicant amended the independent claim 1 so as to eliminate the term "scored" such that claim 1 simply sets forth line points, which also further broadens the scope of the claim. The claims as written are not directed to allowable subject matter, nor does the amendment place the claims as written in condition for allowance



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Alexandria, VA 22313-1450
www.uspto.gov

SUSAN KING
304 S. EAGLESON ROAD
BOISE, ID 83705

COPY MAILED

OCT 30 2007

OFFICE OF PETITIONS

In re Application of :
Susan Clark King :
Application No. 10/704,860 : DECISION ON PETITION
Filed: November 7, 2003 :
For: DISPOSABLE OR WASHABLE CAR :
SEAT LINER :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed June 1, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on September 2, 2006. A Notice of Abandonment was mailed on January 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, \$395 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of \$750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of June 1, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 3761 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114.

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

Frances Hicks
Petitions Examiner
Office of Petitions



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Alexandria, VA 22313-1450
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SUSAN CLARK KING
417 HIDDEN MEADOWS
ST. MARIES ID 83861

COPY MAILED

JAN 27 2010

In re Application of :
Susan Clark King :
Application No. 10/704,860 : DECISION ON PETITION
Filed: November 7, 2003 :
For: DISPOSABLE OR WASHABLE CAR :
SEAT LINER :

This is a decision on the petition, filed October 26, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to timely file a **proper reply** to the Office letter mailed on July 21, 2008. A Notice of Abandonment was mailed on September 25, 2009.

Applicant files the present petition and states that, "A notice of abandonment dated 09/25/2009 was received by applicant on 10/16/2009. A letter is attached that was written by the property manager where applicant was residing at the time, stating the date of actual delivery of the notice of abandonment to applicant was 10/16/09. There was no time for reply stated in the notice of abandonment, however this reply is within a 30 day time period." Applicant should be aware that there is no time period set in a Notice of Abandonment since the application is already abandoned for failure to **timely file a proper reply** to an Office letter. Applicant further states that, "A reply to each and every notice or letter has been timely mailed by applicant. The response mailed on 17 July 2009 was a response to telephonic interviews with Supervisory Examiner Tatyana Zalukaeva and Examiner Hand, (an Interview Summary dated 01 July 2009),

and responding to the Notice of Defective Appeal Brief. Every defect was addressed and corrected in the named response., **APPLICANT HAS NOT RECEIVED ANY OTHER OFFICE LETTER.**"

Applicant is informed that it is irrelevant that the September 25, 2009 mail was not sorted properly/mishandled; the fact is that the abandonment occurred by operation of law on August 21, 2009 due to applicant's failure to timely file a **proper corrected** Appeal Brief on or before August 20, 2009. The first notice of defective appeal brief was mailed on February 20, 2009. Applicant was made aware of the above.

Accordingly, in view of the above, the petition to withdraw holding of abandonment is dismissed.

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

This application is being referred to Technology Center AU 3761 for consideration by the examiner of the petition filed November 25, 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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/704,860	11/07/2003	Susan Clark King		4935

7590
Susan Clark King
417 Hidden Meadows
St. Maries, ID 83861

03/03/2010

EXAMINER

HAND, MELANIE JO

ART UNIT	PAPER NUMBER
3761	

3761

MAIL DATE	DELIVERY MODE
03/03/2010	PAPER

03/03/2010

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.



Susan Clark King
417 Hidden Meadows
St. Maries ID 83861

In re Application of:	:	
KING, SUSAN CLARK	:	
Serial No. 10/704,860	:	
Filed: Nov. 7, 2003	:	DECISION ON PETITION
Docket:	:	
Title:	:	
DISPOSABLE OR WASHABLE CAR	:	
SEAT LINER	:	

This is a decision on the petition filed on November 25, 2009. Petitioner is requesting withdrawal of the abandonment and reinstatement of the appeal under 37 CFR § 1.181. This petition is being considered pursuant to 37 CFR § 1.181, and no fee is required.

The petition is dismissed.

Background

A final rejection was promulgated on July 21, 2008. A Notice of Appeal was filed on September 23, 2008. The applicant filed an Appeal Brief with a Rule 116 amendment on November 18, 2008. The examiner issued an Advisory Action on December 15, 2008 informing the applicant that the Rule 116 amendment was not entered because it contains new claims. On January 2, 2009, the applicant filed another Rule 116 amendment attempting to remove the examiner's objection raised in the Advisory Action of December 15, 2008. In response, on February 20, 2009, a Notification of Non-Compliant Appeal Brief was mailed. The reasons for holding the Appeal Brief of November 18, 2008 were clearly checked in the Notification. See Items 1, 2, 4, 7 and 10 of the Notification of February 20, 2009. On March 20, 2009 and March 23, 2009, the applicant filed an amendment and an amended Appeal Brief. On June 16, 2009, July 6, 2009, July 23, 2009 and September 25, 2009 of various communications to the applicant, the examiner repeatedly explained to the applicant the Amendment and the Appeal Brief of March 23, 2009 remain defective due to the wrong claims under appeal. Finally, on September 25, 2009, the examiner abandoned the application for failure to file a proper Appeal Brief with correct claims in accordance with MPEP § 1215.04. In response to the abandonment notice, on October 26, 2009, the applicant filed a petition to withdraw the holding of abandonment. Without waiting for

a decision from the Petitions Office, on November 25, 2009, the applicant filed the current petition with the correct claims under appeal requesting the Director to withdraw the holding of the abandonment. The petition of October 26, 2009 was dismissed on January 27, 2010 because the holding of abandonment was proper due to failure to file a proper Appeal Brief as required in the Notification of non-compliant Appeal Brief mailed on February 20, 2009. In the decision of January 27, 2010, the Petitions Office asked the Director to consider the petition filed on November 25, 2009.

Discussion

The issue in this petition of November 25, 2009, is whether or not the claims on pages 13-16 of the petition complies with 37 CFR § 41.37(c) (1) (viii). A review and comparison of the finally rejected claims of April 18, 2008 and the claims filed with the current petition shows they are the same claims. Therefore, the claims under appeal as filed with the petition of November 25, 2009 are acceptable for the purpose of appeal. However, the application is in abandoned status due to failure to timely file a proper Appeal Brief with correct claims in accordance with the Notice of Non-Compliant Appeal Brief mailed on February 20, 2009. A complete review of the file records shows there is no error in holding the application abandoned when there is no timely filed compliant Appeal Brief. Since there is no allowable claims based on 37 CFR § 41.37(d)¹, the appeal was properly dismissed by the examiner. There being no allowable claims, the examiner was correct in abandoning the application with the dismissal of the appeal in accordance with MPEP 1215.04².

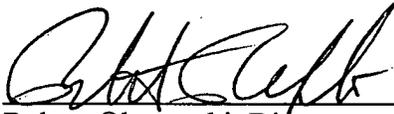
Conclusion

In view of the above, the relief requested cannot be granted under 37 CFR § 1.181. This application remains abandoned. The applicant may wish to file a petition to revive under 37 CFR § 1.137, including the required fee with the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02. The forms and fee schedule can be found in the official USPTO website. A complete Appeal Brief with correct claims also should be submitted separately with the petition to revive the application. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Program Examiner, at (571) 272-4856.

¹ 37 CFR § 41.37(d) states:(d) If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.

² MPEP 1215.04, last paragraph, states the following: An appeal will also be dismissed if an applicant fails to timely and fully reply to a notice of noncompliance with 37 CFR *>41.37(d)<. See MPEP § *>1205.03< and 37 CFR *>41.37(d)<. As in examples (B)-(C) above, if no allowed claims remain in an application, the application is abandoned as of the date the reply to the notice was due. The applicant may petition to revive the application as in other cases of abandonment, and to reinstate the appeal. If the appeal is dismissed, but allowed claims remain in the application, as in examples (A) and (D) above, the application is not abandoned; to reinstate the claims cancelled by the examiner because of the dismissal, the applicant must petition to reinstate the claims and the appeal, but a showing equivalent to a petition to revive under 37 CFR 1.137 is required. In either event, a proper reply to the notice of noncompliance must be filed before the petition will be considered on its merits.

PETITION DISMISSED.



Robert Olszewski, Director
Technology Center 3700



**SUSAN CLARK KING
417 HIDDEN MEADOWS
ST. MARIES ID 83861**

**COPY MAILED
MAR 15 2010**

In re Application of :
Susan Clark King :
Application No. 10/704,860 : **DECISION ON PETITION**
Filed: November 7, 2003 :
For: DISPOSABLE OR WASHABLE CAR :
SEAT LINER :

This is a decision on the renewed petition, filed February 9, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to timely file a proper reply to the Office letter mailed on July 21, 2008. Notice of Abandonment was mailed on September 25, 2009.

The petition is dismissed in view of the statement in the decision mailed March 3, 2010, stating that "the relief requested cannot be granted under 37 CFR § 1.181." Applicant was advised to file a petition to revive under 37 CFR §1.137, accompanied separately with a complete Appeal Brief with correct claims.

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

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

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

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

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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**SUSAN CLARK KING
417 HIDDEN MEADOWS
ST. MARIES ID 83861**

MAILED

JUN 15 2010

OFFICE OF PETITIONS

In re Application of :
Susan Clark King :
Application No. 10/704,860 :
Filed: November 7, 2003 :
For: DISPOSABLE OR WASHABLE CAR :
SEAT LINER :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Appeal Brief; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply of April 9, 2010, 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 3761 for appropriate action by the Examiner in the normal course of business on the reply received April 9, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



Paper No. 9

COPY MAILED

JUN 28 2002

STAAS & HALSEY LLP
700 11TH STREET, NW
SUITE 500
WASHINGTON, DC 20001

In re Application of
Seino, et al.
Application No. 09/966,600
Filed: October 1, 2001
Atty. Dkt. No.: 1460.1029
For: OPTICAL MODULATOR

:
:
: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)
:
:

OFFICE OF PETITIONS

This is in response to the petition under 37 CFR 1.47(a),
filed May 24, 2002.

The petition is GRANTED.

Petitioner has shown that the nonsigning inventor has refused
to join in the filing of the above-identified application
after having been presented with the application papers.

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

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

After this decision is mailed, the above-identified
application will be returned to the Office of Initial Patent
Examination for further processing.

Telephone inquiries regarding this decision should be
directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

COPY MAILED

JAN 13 2006

OFFICE OF PETITIONS

In re Application of :
Seino, et al. :
Application No.: 10/704,920 : DECISION
Filed: November 12, 2003 :
Docket No.: 1460.1029D :
For: OPTICAL MODULATOR :

This decision is in response to the submission dated May 24, 2005.

The declaration submitted herein is a copy of the declaration submitted in U.S. App. No. 09/666,600. In accordance with 37 CFR 1.63(d)(3), a copy of the decision granting a petition to accord § 1.47 status to the prior application (U.S. App. 09/966,600) was submitted herewith.

A review of the official application file reveals that the instant application is a continuation of application 09/966,600 and that said application was accorded Rule 47 status on August 26, 2002.

In accordance with 37 CFR 1.63(d)(3), where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by: (i) A copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under § 1.47 of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c); and (ii) if one or more inventor(s) or legal representative(s) who refused to join in the prior application or could not be found or reached has subsequently joined in the prior application or another application of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c), a copy of the subsequently executed oath(s) or declaration(s) filed by the inventor or legal representative to join in the application.

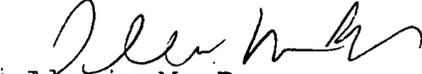
A copy of the declaration and decision according Rule 47 status in application No. 09/966,600 have been placed in the official application file of application No. 10/704,920.

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

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

This application is being returned to the Office of Initial Patent Examination for further processing.

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


Alesia M. Brown
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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WWW.USPTO.GOV

Paper No.

LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

COPY MAILED

SEP 29 2008

In re Application of :
Patricia Rao :
Application No. 10/704,921 : DECISION ON PETITION
Filed: November 10, 2003 : PURSUANT TO
Attorney Docket No. TLN-026CP : 37 C.F.R. § 1.10(C)
Title: MOLECULES PREFERENTIALLY :
ASSOCIATED WITH EFFECTOR T CELLS :
AND METHODS OF THEIR USE :

Background

This is a decision on the petition pursuant to 37 C.F.R. § 1.10(c), filed on August 14, 2008, requesting that a Notice of Appeal be accorded a filing date of July 24, 2008.

On January 24, 2008, the Office mailed a final Office Action, setting a shortened statutory period for reply of 3 months. On July 25, 2008, a Notice of Appeal was received, along with a three-month extension of time. The Office of Initial Patent Examination assigned the Notice of Appeal a filing date of July 25, 2008.

On August 14, 2008, applicants filed the present petition. Petitioners have included a copy of the Express Mail Label having a number of EM066475713US. Applicants request that the Notice of Appeal be accorded a filing date of July 24, 2008.

The relevant section of the CFR

37 C.F.R. § 1.10 sets forth, *in toto*:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
- (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Analysis

The electronic record has been reviewed. The Notice of Appeal has an electronic date of "07-25-2008," and the scanned image bears a stamp from the Office of Initial Patent Examination (OIPE) dated "JUL 25 2008." It is further noted that the Notice of Appeal contains the Express Mail label number EM066475713US.

Regarding the Express Mail label number EM066475713US that Petitioner has provided with this petition, it is noted that the label contains a "date-in" of July 24, 2008.

CONCLUSION

Although the Notice of Appeal received a filing date of July 25, 2008, the evidence is convincing that the Notice of Appeal was filed on July 24, 2008, and the incorrect filing date was subsequently assigned to this Notice of Appeal.

Accordingly, 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 Office records can be updated to reflect that the Notice of Appeal was filed on July 24, 2008.

The Notice of Appeal will receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.¹ All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

¹ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID C RIPMA PATENT COUNSEL
SHARP LABORATORIES OF AMERICA INC
5750 NW PACIFIC RIM BLVD
CAMAS WA 98607

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APR 12 2005

OFFICE OF PETITIONS

In re Application of :
Apostolos Voutsas :
Application No. 10/704,928 :
Filed: November 10, 2003 :
Attorney Docket No. SLA0836 :
(SLA0582D) :

DECISION ON PETITION

This is a decision on the "PETITION IN RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION", filed July 26, 2004, which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of November 10, 2003, with Figure 10 of the drawings as part of the original disclosure.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.53". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

Application papers in the above-identified application were filed on November 10, 2003. However, on June 1, 2004, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, Figure 10 of the drawings appeared to have been omitted.

In response, applicant filed the instant petition. Applicant maintains that the application as originally filed included Figure 10. In support thereof, applicant points to his transmittal letter. However, a transmittal letter only serves as proof of an intent to file. Applicant has not submitted *prima facie* evidence in the form of a USPTO date stamped, itemized postcard receipt. Although applicant mentioned a postcard receipt, no postcard receipt was found with the petition.

If applicant seeks to use a postcard receipt to establish that Figure 10 was present on filing, applicant may submit the postcard receipt on request for reconsideration. If however, applicant desires to enter Figure 10 from the parent application into the instant application based upon the incorporation by reference statement, applicant is directed to MPEP § 201.06(c), which states that "[t]he inclusion of this incorporation by reference of the prior application(s) will permit an applicant to **amend** the continuing application to include any subject matter in such prior application(s), **without the need for a petition**" (emphasis added).

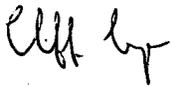
Any renewed petition, if filed, should be addressed as follows:

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

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

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of November 10, 2003, using the application papers received in the Office on that date.

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



Cliff Congo
Petitions Attorney
Office of Petitions



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

DAVID C RIPMA PATENT COUNSEL
SHARP LABORATORIES OF AMERICA INC
5750 NW PACIFIC RIM BLVD
CAMAS WA 98607

COPY MAILED

JUL 06 2005

OFFICE OF PETITIONS

In re Application of :
Apostolos Voutsas :
Application No. 10/704,928 : DECISION ON PETITION
Filed: November 10, 2003 :
Attorney Docket No. SLA0836 :
(SLA0582D) :

This is a decision on the "RENEWED PETITION UNDER 37 C.F.R. 1.53", filed April 19, 2005, to accord the above-identified application a filing date of November 10, 2003, with Figure 10 of the drawings as part of the original disclosure.

The petition is GRANTED.

Application papers in the above-identified application were filed on November 10, 2003. However, on June 1, 2004, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, Figure 10 of the drawings appeared to have been omitted.

In response, applicant filed a petition under 37 CFR 1.53 on July 26, 2004. Applicant maintained that the application as originally filed included Figure 10. In support thereof, applicant pointed to his transmittal letter. However, a transmittal letter only serves as proof of an intent to file. Applicant did not submit *prima facie* evidence in the form of a USPTO date stamped, itemized postcard receipt. Although applicant mentioned a postcard receipt, no postcard receipt was found with the petition. Accordingly, the petition was dismissed in a decision mailed on April 12, 2005.

On renewed petition, applicant has submitted a USPTO date stamped, itemized postcard receipt for the instant application, evidencing receipt of "6 sheets of Formal Drawings".

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.

Given the basis for granting this petition, the petition fee of \$130 submitted on July 26, 2004 has been refunded to Deposit Account No. 19-1457, as authorized.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of November 10, 2003, using the application papers received in the Office on that date and the copy of Figure 10 as resupplied on petition filed April 19, 2005.

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



Cliff Congo
Petitions Attorney
Office of Petitions



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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 : I-Hwa Lee : DECISION ON REQUEST FOR
Patent Number : 7615270 : RECALCULATION of PATENT
Issue Date : 11/10/2009 : TERM ADJUSTMENT IN VIEW
Appliction No : 10/704,934 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/11/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1395** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant : James E. King : DECISION ON REQUEST FOR
Patent Number : 7685257 : RECALCULATION of PATENT
Issue Date : 03/23/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/704,939 : OF WYETH
Filed : 11/10/2003 :
:
:

The Patentee's Request for Recalculation is **DISMISSED**.

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b) (2) (A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b) (4) (A) concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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


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APPL NO.	FILING OR 371 (e) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/704,944	11/10/2003	3627	856	9400-71	8	19	4

CONFIRMATION NO. 3922

 39072
 MYERS BIGEL SIBLEY & SAJOVEC, P.A.
 P.O. BOX 37428
 RALEIGH, NC 27627

CORRECTED FILING RECEIPT


OC000000012415051

Date Mailed: 04/22/2004

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

Applicant(s)

Gary William Marr, Marietta, GA;

Domestic Priority data as claimed by applicant
Foreign Applications
If Required, Foreign Filing License Granted: 02/09/2004
Projected Publication Date: 05/12/2005
Non-Publication Request: No
Early Publication Request: No
Title

Methods, systems and computer program products for segmented presentation of service order status information

Preliminary Class

705

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

GRANTED

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

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

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

NOT GRANTED

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



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Paper No. 101804

ARTHUR W. FISHER, III
Suite 316
5553 W Waters Ave
Tampa, FL 33634

OCT 28 2004

In re Application of:	:	
BAKER <i>et al.</i>	:	DECISION ON PETITION
Serial No.: 10/704,949	:	TO MAKE SPECIAL
Filed: November 10, 2003	:	
Attorney Docket No.:	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed November 10, 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 applicants are sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from both of the co-inventors, Richard H Baker and S.Merril Skeist , stating that the he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton LaBalle at (571) 272-1594.


 Clayton E. LaBalle, Special Programs Examiner
 Technology Center 2800
 Semiconductors, Electrical and Optical
 Systems and Components

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<h1>TRANSMITTAL FORM</h1> <p><i>(to be used for all correspondence after initial filing)</i></p>	Application Number	10/704955-Conf. #3897
	Filing Date	November 10, 2003
	First Named Inventor	Takahiro KURIWA
	Art Unit	1745
	Examiner Name	Not Yet Assigned
	Attorney Docket Number	NGW-011
Total Number of Pages in This Submission		

ENCLOSURES (Check all that apply)				
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): True Copy of Date-Stamped Return Postcard Receipt (1 page) True Copy of Express Mail Label No. EV 311 019 332 US Made Prior to Deposit (1 page) True Copy of Express Mail Label No. EV 311 019 332 US Bearing the Date in of November 10, 2003 (1 page) Copy of Filing Receipt w/correction (2 pages) Return Receipt Postcard		
<table border="1" style="width: 100%;"> <tr> <td style="width: 30%;">Remarks</td> <td></td> </tr> </table>			Remarks	
Remarks				

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	LAHIVE & COCKFIELD, LLP Anthony A. Laurentano - 38,220
Signature	
Date	April 15, 2004

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 378818665 US, in an envelope addressed to: MS Petition, Commissioner of Patents P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.
 Dated: April 15, 2004 Signature: (Anthony A. Laurentano)



FEE TRANSMITTAL for FY 2004

Effective 10/01/2003, Patent fees are subject to annual revision.

<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Complete if Known	
TOTAL AMOUNT OF PAYMENT		Application Number	10/704955-Conf. #3897
(\$)	130.00	Filing Date	November 10, 2003
		First Named Inventor	Takahiro KURIWA
		Examiner Name	Not Yet Assigned
		Art Unit	1745
		Attorney Docket No.	NGW-011

METHOD OF PAYMENT (check all that apply)

Check Credit Card Money Order Other None

Deposit Account:

Deposit Account Number: 12-0080

Deposit Account Name: Lahive & Cockfield, LLP

The Director is authorized to: (check all that apply)

Charge fee(s) indicated below Credit any overpayments

Charge any additional fee(s) or any underpayment of fee(s)

Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	130.00
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 130.00

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$) 0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims: 14 -20** = x = 0.00

Independent Claims: 3 -3** = x = 0.00

Multiple Dependent: =

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	86	2201	43	Independent claims in excess of 3	
1203	290	2203	145	Multiple dependent claim, if not paid	
1204	86	2204	43	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$) 0.00

**or number previously paid, if greater; For Reissues, see above

SUBMITTED BY (Complete if applicable)

Name (Print/Type): Anthony A. Laurentano Registration No. (Attorney/Agent): 38,220 Telephone: (617) 227-7400

Signature: *Anthony A. Laurentano* Date: April 15, 2004

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 378818665 US, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: April 15, 2004 Signature: *Anthony A. Laurentano* (Anthony A. Laurentano)



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Dated: April 15, 2004 Signature:

Anthony Laurentano
(Anthony Laurentano)

Docket No.: NGW-011
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Takahiro KURIIWA *et al.*

Application No.: 10/704,955

Art Unit: 1745

Filed: November 10, 2003

Examiner: Not Yet Assigned

For: Fuel Cell Hydrogen Recovery System

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION REQUESTING GRANT OF ORIGINAL FILING DATE
PURSUANT TO 37 C.F.R. §1.53(e)

Dear Sir:

The filing date on the filing receipt date sent by the U.S. Patent and Trademark Office for the above-referenced application erroneously lists a filing date of November 12, 2003. Applicants request that this application be granted a filing date of November 10, 2003, as the above-identified patent application was deposited with the U.S. Postal Service for delivery to the United States Patent and Trademark Office via the "Express Mail Post Office to Addressee" on November 10, 2003, not November 12, 2003.

In support of their request, Applicants attach hereto copies of the following documents as evidence that the Applicants are entitled to the requested filing date of November 10, 2003 for the above-referenced application:

(1) a true copy of the date-stamped return postcard receipt, which was is date-stamped "November 10, 2003" by the U.S. Patent and Trademark Office mailroom.

(2) a true copy of the Express Mail Label No. **EV 311 019 332 US** made prior to deposit of the application with the United States Postal Service.

(3) a true copy of the Express Mail Label No. **EV 311 019 332 US**, bearing the "date in" of November 10, 2003 and also bearing the official **USPS 20/FORT POINT STA BOSTON MA 02205** date stamp of **November 10**, 2003 in the upper right-hand corner of the Express Mail label, indicating that the application package was in fact deposited with the United States Postal Service as "Express Mail Post Office to Addressee" on **November 10, 2003**.

Therefore, in accordance with 37 C.F.R. §1.53(e)(2), Applicants hereby promptly submit the aforementioned items (1), (2), (3) and (4), the application was filed on October 23, 2003.

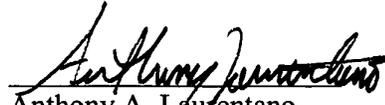
A copy of the Filing Receipt is also submitted herewith with the correction noted thereon.

In summary, Applicant respectfully requests that the present Petition be granted and that the filing date of the enclosed patent application be **November 10, 2003**.

If necessary, please charge the petition fee of \$130.00 to our Deposit Account No. 12-0080. Applicants request that the petition fee be refunded if the Office finds the application was in fact received by the USPTO on November 10, 2003.

Please contact the undersigned at 617-227-7400 with any questions.

Respectfully submitted,
LAHIVE & COCKFIELD, LLP



Anthony A. Laurentano
Reg. No. 38,220
Attorney for Applicants

28 State Street
Boston, MA 02109
Phone: (617) 227-7400
Fax: (617) 742-4214

Date: April 15, 2004

Atty Docket No.: NGW-011

Inventor: Takahiro Kuriwa, et al.

Application No.: NEW APPLICATION

Filing Date: Concurrently Herewith

Title: FUEL CELL HYDROGEN RECOVERY SYSTEM

03945 U.S. PTO
10/704955



Documents Filed:

Utility Patent Application Transmittal (1 page)

Assignment (1 page)

Application Data Sheet (3 pages)

IDS (Citation) by Applicant/SB08 (3 pages)

Specification (37 pages)

Copy of 1 Informative Disclosure Citation

7 drawings (7 sheets)

Claim for Priority and Submission of Document (2 pages)

Preliminary Amendment (5 pages)

Certified copy of Priority document JP 2002-325680

Executed Declaration, Petition and Power of Attorney (6 pages)

Fee Transmittal (1 page in duplicate)

Recordation Form Cover Sheet (1 page)

Charge \$810.00 to deposit account 12-0080

Via: Express Mail: Airbill No. EV 311 019 332 US

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Date: November 10, 2003.

6347 10000

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EV 311019332 US

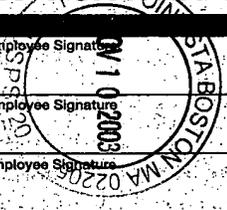


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FROM: (PLEASE PRINT) PHONE () () ()

LAHIVE & COCKFIELD LLP
28 STATE ST FL 24
BOSTON MA 02109-1784

Anthony A. Laurentano NGW-011
lgh

TO: (PLEASE PRINT) PHONE () () ()

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/704,955	11/12/2003 11/10/2003	1745	770	NGW-011	7	14	3

CONFIRMATION NO. 3897

00959
 LAHIVE & COCKFIELD, LLP.
 28 STATE STREET
 BOSTON, MA 02109

FILING RECEIPT



OC00000011899743

Date Mailed: 02/13/2004

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

Applicant(s)

Takahiro Kuriwa, Wako-shi, JAPAN;
 Ryoji Takenawa, Wako-shi, JAPAN;
 Toshiaki Shimada, Wako-shi, JAPAN;

Assignment For Published Patent Application

Honda Motor Co., Ltd., Tokyo, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-325680 11/08/2002

If Required, Foreign Filing License Granted: 02/10/2004

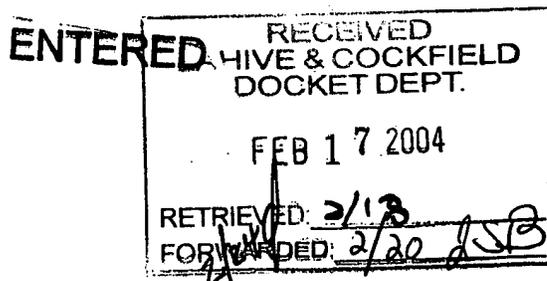
Projected Publication Date: 05/20/2004

Non-Publication Request: No

Early Publication Request: No

Title

Fuel cell hydrogen recovery system



Preliminary Class

429

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

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

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

NOT GRANTED

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



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28 STATE STREET
BOSTON, MA 02109

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MAY 18 2005

OFFICE OF PETITIONS

In re Application of :
Kuriwa, et al. :
Application No. 10/704,955 : **DECISION GRANTING PETITION**
Filed: November 10, 2003 :
Attorney Docket No. **NGW-011** :

This is a decision on the petition filed April 15, 2004, under 37 CFR 1.10 requesting that the above-cited application be accorded a filing date of November 10, 2003.

Petitioner alleges that the application was deposited with the Express Mail Service on November 10, 2003. In support of the allegation, the petition is accompanied by a copy of the Express Mail postcard with a tracking number EV311019332US showing a "date-in" of November 10, 2003. The tracking number cited is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on November 10, 2003

In view of the above, the petition is granted. The new filing date for the above-cited application is November 10, 2003.

The petition fee of \$130.00 will be refunded to deposit account 12-0080.

The application file will be directed to the Office of Initial Patent Examination for further processing with a filing date of November 10, 2003, and for issuance of a corrected filing receipt.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND										
1 Date of Request: <u>5/18/05</u>		2 Serial/Patent # <u>10/704,955</u>								
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED							
	Filing		\$							
	Amendment		\$							
	Extension of Time		\$							
	Notice of Appeal/Appeal		\$							
<input checked="" type="checkbox"/>	Petition	—	4/15/04 \$ 130.00							
	Issue		\$							
	Cert of Correction/Terminal Disc.		\$							
	Maintenance		\$							
	Assignment		\$							
	Other		\$							
		7 TOTAL AMOUNT OF REFUND								
		\$ 130.00								
10 REASON:		8 TO BE REFUNDED BY:								
		Treasury Check								
		Credit Deposit A/C #:								
	Overpayment	9 <table border="1" style="display: inline-table; border-collapse: collapse; text-align: center;"> <tr><td>1</td><td>2</td><td>--</td><td>0</td><td>0</td><td>8</td><td>0</td></tr> </table>		1	2	--	0	0	8	0
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<u>Office Error</u>										
11 REFUND REQUESTED BY:										
TYPED/PRINTED NAME: <u>Kenya McLaughlin</u>		TITLE: <u>Petitions Atty.</u>								
SIGNATURE: <u>Kenya McLaughlin</u>		PHONE: <u>571-272-3222</u>								
OFFICE: <u>Petitions</u>										
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APPROVED: <u>Alisa Kelly</u>		DATE: <u>5/18/05</u>								

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APR 25 2007

OFFICE OF PETITIONS

In re Application of :
Gary Tsaur : DECISION ON PETITION
Application No. 10/704,960 :
Filed: November 10, 2003 :
Title: Fingertip Pusher :

This is in response to the "Petition Under 37 C.F.R. § 1.181(a) Requesting Withdrawal of the Holding of Abandonment" filed January 19, 2007.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed May 11, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective August 12, 2006. A courtesy Notice of Abandonment was mailed on November 27, 2006.

Petitioner asserts that their response was timely filed on November 10, 2006 with a petition for extension of time and check in the amount of \$510 for the extension fee. In support thereof, petitioner submits a copy of the response.

Consideration of petitioner's evidence is unnecessary. Their response, including an extension of time, is present in the application with a date of receipt of November 20, 2006. The response references and includes payment of a three-month extension of time and both are made timely by virtue of the certificate of mailing dated November 10, 2006. The three-month

extension of time, required to make the response timely, was previously made of record.

Accordingly, the Notice of Abandonment mailed November 27, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3754 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response timely filed on November 20, 2006 (with a certificate of mailing dated November 10, 2006).

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

A handwritten signature in cursive script, appearing to read "Nancy Johnson".

Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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JUL 28 2004

In re Application of :
Bernard Fay :
Serial Number : 10/704,979 : WITHDRAWAL
Filed : November 12, 2003 : FROM
For : AUTOMATED OVERLAY METRO- : ISSUE
LOGY SYSTEM :

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

Jacqueline M. Stone

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

Whitham, Curtis & Christofferson, PC
11491 Sunset Hills Road
Suite 340
Reston, VA 20190

cc:Allowed Files, Pk3-915



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Schultz & Associates, P.C.
5400 LBJ Freeway
Suite 1200
Dallas, TX 75240

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OFFICE OF PETITIONS

In re Application of
Mark Jeffrey Lowe
Application No: 10/704,990
Filed: November 10, 2003
Attorney Docket No. HR 11.01

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 20, 2006, to revive the above-identified application. The delay in responding is regretted.

The application became abandoned for failure to respond to the non-final Office action mailed May 23, 2005. A Notice of Abandonment was mailed on December 14, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of \$750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3637 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/704,990	11/10/2003	Mark Jeffrey Lowe	HR 11.01

Schultz & Associates, P.C.
5400 LBJ Freeway
Suite 1200
Dallas, TX 75240

CONFIRMATION NO. 7720
POA ACCEPTANCE LETTER



Date Mailed: 12/07/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

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

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.

/amsmith/

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



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M. Matthews Hail
520 S.W. Yamhill Street
Suite 200
Portland, Oregon 97204

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Director's Office
Group 3700

In re application of : **DECISION ON PETITION**
Douglas P. Hand : **TO MAKE SPECIAL**
 : **UNDER 37 CFR. 1.102(c)**
Serial Number: 10/705027 :
Filed: November 10, 2003 :

For: **REPLACEABLE TOILET VALVE LIP**

This is a decision on the petition filed on November 10, 2003, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only 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: Decision on Petition GRANTED.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 5/5/05



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LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON, MA 02109

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MAR 24 2005

OFFICE OF PETITIONS

In re Application of :
Allan M. Green, et al. :
Application No. 10/705,028 :
Filed: November 11, 2003 :
Attorney Docket No. NBI-088CN :

ON PETITION

This is a decision on the petition, filed January 6, 2005, 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 a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosure mailed February 23, 2004, which set a period for reply of two-months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On December 2, 2004, a Notice of Abandonment was mailed.

The petition is found to comply with the requirements of the 37 CFR 1.137(b). Accordingly, the application is being referred to the Office of Initial Patent Examination for further review of the response filed January 5, 2005.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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



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BOSTON, MA 02109

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MAR 24 2005

OFFICE OF PETITIONS

In re Application of :
Allan M. Green, et al. :
Application No. 10/705,028 : DECISION GRANTING PETITION
Filed: November 10, 2003 :
Attorney Docket No. NBI-088CN :

This is a decision on the petition filed February 3, 2005, requesting that the above-identified application be accorded a filing date of November 10, 2003, instead of the presently accorded date of November 11, 2003.

Petitioner alleges that the application was deposited in "Express Mail" Service with the U. S. Postal Service (USPS) on November 10, 2003. In support, petitioner provides, *inter alia*, a copy of the "Express Mail" mailing label receipt No. EV 354 227 712 US. The same Express Mail receipt number was referred to in the original application transmittal letter found in the file.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, 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 USPS on November 10, 2003.

The petition is granted.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **November 10, 2003**.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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



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M/S EVW 2-C-2
6300 LEGACY DRIVE
PLANO, TX 75024

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OFFICE OF PETITIONS

In re Application of :
Bergenwall et al. :
Application No. 10/705,079 : **ON PETITION**
Filed: November 10, 2003 :
Attorney Docket No. P17600-US1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 30, 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 and 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 AU 2435 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.


Liana Walsh
Petitions Examiner
Office of Petitions



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JONES DAY
555 SOUTH FLOWER STREET
FIFTIETH FLOOR
LOS ANGELES, CA 90071

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of :
Brian Snowden :
Application No. 10/705,086 :
Filed: November 10, 2003 : ON PETITION
Title of Invention: METHOD AND :
APPARATUS FOR PNEUMATIC CONVEYING :
OF DRILL CUTTINGS :

This is a decision on the Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181, filed November 14, 2005.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 11, 2005. The Office action set a three (3) month period for reply. No reply having been received, the application became abandoned on November 12, 2005. A Notice of Abandonment was mailed on October 31, 2005.

Applicant's Assertion

Applicant asserts that a timely reply to the Office action was filed on October 1, 2004. In support of this assertion, Applicant provides, *inter alia*, copies of a Terminal Disclaimer and Introductory Remarks filed October 11, 2004, and a copy of a Return Receipt postcard evidencing receipt of a Fee Transmittal; Amendment; Terminal Disclaimer and Certificate of Mailing sated September 28, 2004.

A review of the Return-Receipt postcard and copies of the Terminal Disclaimer and Introductory Remarks filed October 11, 2004 reveal that the application serial number listed on the documents to be Application serial number 10/705,806, and not

those of the above identified application serial number 10/705,860.

A further review of the Return-Receipt postcard and copies of the Terminal Disclaimer and Introductory Remarks filed October 11, 2004 reveal that the inventor, filing date, title of the invention and art unit were all consistent with that of the above-identified application.

Apparently the Response to Office action was filed in this Office on October 1, 2004, and due to errors on the part of applicant and this Office, was inadvertently mis-placed. Accordingly, the petition is granted.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application file is being referred to Technology Center Art Unit 3651 for continued processing in due course.

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


Derek L. Woods

Attorney
Office of Petitions



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

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NOV 23 2004

OFFICE OF PETITIONS

In re Application of :
Torp, et al. :
Application No. 10/705,087 : DECISION ON PETITION
Filed: November 10, 2003 :
Attorney Docket No. 15-DS-000523 :
DIV2-1 (1248) :

This is a decision on the petition under 37 CFR 1.182, filed April 16, 2004, requesting that the above-identified application be accorded a filing date of November 10, 2003.

The instant application was deposited on November 10, 2003, as a divisional application of prior application no. 10/054,033. However, the instant application omitted a copy of the drawings. Accordingly, on March 1, 2004, the Office of Initial Patent Examination properly mailed a "Notice of Incomplete Nonprovisional Application", requiring drawings and stating that the filing date would be the date of receipt of the drawings.

In response, petitioner filed the present petition on April 16, 2004, together with a copy of the omitted drawings. Petitioner does not dispute the fact that no drawings were filed in the instant application. Rather, petitioner points out that he incorporated prior application 10/054,033 by reference in the application transmittal form.

With respect to the practice of incorporation by reference, the Manual of Patent Examining Procedure states:

Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the

application a filing date, the application will not be entitled to a filing date. **A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application.** An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered.¹

Incorporation by reference is intended as a safeguard to protect an applicant who in a continuation or divisional application has omitted a "portion" of the application on filing.² Here, petitioner omitted drawings in their entirety. As at least one drawing was necessary to accord the instant application a filing date, no filing date was accorded at the time of filing. However, petitioner properly incorporated prior application no. 10/054,033 by reference. In addition, petitioner submitted the omitted drawings and paid the \$130 petition fee. While petitioner has not specifically submitted an amendment seeking entry of the drawings, the petition will be construed as such. Accordingly, the above identified application is entitled to a filing date of November 10, 2003.

In view thereof, the petition is **GRANTED**.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of November 10, 2003, using the application papers received in the Office on that date and the 11 sheets of drawings supplied with the petition filed April 16, 2004. Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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

for *Charles J Woods*
Charles Pearson
Director
Office of Petitions

¹ MPEP 201.06(c) (emphasis added).

² See id.



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

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DEC 1 0 2008

OFFICE OF PETITIONS

In re Application of :
Hans Torp, et. al. :
Application No. 10/705,087 : DECISION ON PETITION
Filed: November 10, 2003 :
Attorney Docket No. 12483US07 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office Action of April 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 3737 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian W. Brown
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06-08-10

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/705113 Patent No.: 7064672

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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



Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

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: _____

/Benjamin C. Lee/

2612

SPE

Art Unit



ROBERT J. SCHAAP
Suite 188
21241 Ventura Boulevard
Woodland Hills CA 91364

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AUG 27 2004

OFFICE OF PETITIONS

In re Application of :
Allen :
Application No. 10/705,117 :
Filed: November 10, 2003 :
Attorney Docket No. N/A :
For: TORQUE CONTROLLING FASTENER :

ON PETITION

This is a decision on the correspondence filed on March 24, 2004 entitled, "RESPONSE TO NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION," in which petitioner (1) submits a copy of omitted Figure 18 after alleging that it was filed with the application papers on November 10, 2003 and (2) argues that Figure 18 is not new matter. The correspondence is being treated as a petition under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) is **DISMISSED**.

The application was filed on November 10, 2003. However, on February 12, 2004, The Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice) stating, *inter alia*, that the application had been accorded a filing date of November 10, 2003, and advising applicant that Figure 18 referenced in the specification appeared to have been omitted.

In response, the present correspondence, which is in essence a petition, was filed.¹ Petitioner asserts that omitted Figure 18 was filed with the original application papers, but provides no evidence to bolster his case.

Next, petitioner argues that page 22 of the application more than adequately describes the invention and provides support for Figure 18. Petitioner asserts that Figure 18 is not new matter.

The mailing of the Notice permitted applicant to either: (1) promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or

¹ Deposit account no. 19-0258 will be charged a \$130.00 petition fee.

(2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

In this case, petitioner did not select option 1 above – provide evidence that the missing figure was actually deposited in the PTO on November 10, 2003 – or option 2 – request a filing date for the application as of the date that Figure 18 was filed. Petitioner did not explicitly accept the application as filed, either.

Instead, petitioner asserts that Figure 18 is fully described in the specification filed on November 10, 2003 and does not contain new matter. Whether the later filed drawing contains new matter is not the issue. Either the drawing was present in the Office on the filing date of the application or it was not. If it was not present on the filing date, it cannot be considered a part of the original disclosure of the application.

A review of the file confirms that Figure 18 was not present on November 10, 2003. Therefore, the application cannot be accorded a November 10, 2003 filing date with the drawing of Figure 18 as a part of the original disclosure. The issue of new matter is one appropriately addressed by the examiner of record during prosecution of the application after the filing date of the application has been determined.

If petitioner possesses an itemized date stamped return receipt postcard with an Office date stamp of November 10, 2003 affixed thereto, petitioner should submit it in any reconsideration petition. Of course, applicant may submit the drawing of Figure 18 as an amendment to the drawings in which case the examiner will determine whether the additional sheet of drawing contains new matter (see MPEP 608.02(h)).

The petition is **dismissed**.

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

The application is being returned to Initial Patent Examination Division for further processing with a filing date of **November 10, 2003**, and indication in Office records that 7 sheets of drawings were present on filing. Figure 18 will neither be processed, nor considered part of the original disclosure.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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XTREMESPECTRUM, INC.
8133 LEESBURG PIKE
SUITE 700
VIENNA, VA 22182

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DEC 28 2007

OFFICE OF PETITIONS

In re Application of :
John W. MCCORKLE :
Application No. 10/705,120 : DECISION ON PETITION
Filed: November 12, 2003 :
Attorney Docket No. XSI.008C/ 10X-210C :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 20, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$1500, (3) a proper statement of unintentional delay: and (4) terminal disclaimer.

The Associate Power of Attorney filed with the petition on September 27, 2007, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b) was eliminated). See MPEP § 402.02 and Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865 (May 26, 2004); 1283 Off. Gaz. 148 (June 22, 2004). Although the paper has been placed in the file, the names of the patent practitioners listed on the Associate Power of Attorney have not been made of record. However, as requested, and since the Associate Power of Attorney was signed by an attorney of record, the correspondence address has been changed to the address noted in the document.

This application is being referred to Technology Center AU 2644 for appropriate action by the Examiner in the normal course of business on the reply received September 27, 2007.



April Wise
Petitions Examiner
Office of Petitions

Cc: BRIAN C. ALTIMILLER
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191



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SONNENSCHN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, WILLIS TOWER
CHICAGO IL 60606-1080

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FEB 26 2010

In re Application of :
Linda J. Sandell et al. :
Application No. 10/705,124 : **DECISION ON PETITION**
Filed: November 10, 2003 :
Attorney Docket No. 60019620-0238 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 5, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 6, 2007. A Notice of Abandonment was mailed on June 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b), (2) the petition fee of \$810 and (3) a proper statement of unintentional delay. Accordingly, the filing of a continuing application under 37 CFR 1.53(b) is accepted as being unintentionally delayed.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of a continuing application under 37 CFR 1.53(b).

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions



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

Mail Date: 04/20/2010

Applicant	: Rafael Fonseca	: DECISION ON REQUEST FOR
Patent Number	: 7662579	: RECALCULATION OF PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/705,134	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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.



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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 04/23/2010

Applicant : Darran Potter : DECISION ON REQUEST FOR
Patent Number : 7606916 : RECALCULATION of PATENT
Issue Date : 10/20/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/705,158 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/10/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1152** 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.



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

In re Application of	:	
James Thomas Ray, et al.	:	
Application No. 10/705,160	:	DECISION ON REQUEST FOR
Filed: November 6, 2003	:	REVOCATION OF POWER
Attorney Docket No. SIZE0001	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed September 28, 2007.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

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



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SEP 15 2004

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

In re Application of :
Aravanis et al.
Serial No.: 10/705,162
Filed: November 6, 2003
Attorney Docket No.: 40271-8002.US00

:
:
: PETITION TO MAKE SPECIAL
:
:

This is in response to applicant's petition filed July 2, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on applicants who are small entities having applications relating to biotechnology.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, XII (A), (B), and (C). The \$130.00 petition fee as required by 37 CFR 1.17(h) will be charged to applicant's Deposit Account No. 50-2207, as directed. Therefore, the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission to the general Office facsimile number.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600



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

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JAN 17 2007

OFFICE OF PETITIONS

Applicant: Fletterick et al.
Appl. No.: 10/705,165
Filing Date: November 6, 2003
Title: INHIBITORS FOR ANDROGEN ANTAGONIST REFRACTORY PROSTATE
CANCER
Attorney Docket No.: 19459-009001
Pub. No.: US 2005/0202440 A1
Pub. Date: September 15, 2005

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on October 21, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

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

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



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RUTAN & TUCKER, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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JAN 25 2010

In re Application of	:	
Braunstein et al.	:	DECISION ON PETITION
Application No. 10/705,193	:	TO WITHDRAW
Filed: November 10, 2003	:	FROM RECORD
Attorney Docket No. 026515-0004P	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on October 30, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Runtan & Tucker, LLP was not properly appointed power of attorney in this patent application. The Power of Attorney filed on December 21, 2007, cannot be accepted since it was signed by the assignee of record and did not include a Statement Under 3.73(b). Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Further, the Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted herein cannot be approved since the Office no longer accepts address changes to a new practitioner or law firm filed with requests under 37 C.F.R. § 1.36(b).

The Office will only accept correspondence address changes 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, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

The application is currently abandoned for failure to respond to the Office action mailed May 26, 2009.

Petitioner should note that requests filed prior to the expiration date of a time period for reply or the expiration date of a time period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a), the Office will review the Request and render a decision, even if the decision on the Request is decided after the stated period for reply, after the application is abandoned, or after

proceedings have terminated. In contrast, the Office will not decide on requests to withdraw from representation as practitioner of record which are filed after the expiration date of a time period for reply or the expiration date of a time period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). These Requests will be placed in the application but will not be treated on their merits.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A handwritten signature in cursive script, appearing to read "A. Kelley", with a long, sweeping flourish extending to the right.

Alicia Kelley
Petitions Examiner
Office of Petitions



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

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AUG 01 2005

In re Application of : OFFICE OF PETITIONS
Yasuo Segawa et al :
Application No. 10/705,223 : DECISION GRANTING PETITION
Filed: November 12, 2003 : UNDER 37 CFR 1.313(c) (2)
Attorney Docket No. 492322014700 :

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

The petition is GRANTED.

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

Petitioner is advised that the issue fee paid on May 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This matter is being referred to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.


Frances Hicks
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), 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).



LOWE HAUPTMAN GILMAN AND BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300 /310
ALEXANDRIA VA 22314

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MAY 24 2004

In re Application of Yamamoto, et al. : **OFFICE OF PETITIONS**
Application No. 10/705,228 : DECISION GRANTING
Filed: November 12, 2003 : PETITION
Attorney Docket No. 4559-006 :

This is a decision on the petition under 37 CFR 1.53(e), filed March 19, 2004, requesting, in effect, partial withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice) insofar as it alleges that Figures 6 and 7 described in the specification was omitted.

The application was filed on November 12, 2003. On February 10, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that Figures 6 and 7 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figures 6 and 7 be accorded a filing date of November 12, 2003 on the basis that 7 sheets of formal drawing figures, including Figures 6 and 7, were received in the Patent and Trademark Office (PTO) on November 12, 2003. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing November 12, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 7 sheets of formal drawings.

The return postcard constitutes *prima facie* evidence that 7 sheets of formal drawing figures were filed on November 12, 2003. MPEP 503. A review of the originally filed sheets of drawings reveals that only 5 sheets, depicting Figures 1-5, are present.

Accordingly, the request is granted. Pursuant to petitioners' authorization, the \$130.00 petition fee will be credited to deposit account no. 07-1337.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of November 12, 2003, using copy of Figures 6 and 7 submitted with the instant petition. Office records will be corrected to show that 7 sheets of drawings were present on filing.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions



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

COPY MAILED

JUN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey Alan Middlesworth et al	:	
Application No. 10/705,248	:	DECISION ON PETITION
Filed: November 12, 2003	:	TO WITHDRAW
Attorney Docket No. 44904.000751	:	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 14, 2005.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, “[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]” More specifically, 37 CFR 10.40 states, “[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is” for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, Assignee has requested transfer of responsibilities for this application, do not appear to 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 Irvin Dingle at 571-272-3210.


David Bucci
Petitions Examiner
Office of Petitions

cc: Joseph A. Tessari
Tredegar Film Products
1100 Boulders Parkway
Richmond, VA 23225



Tessari & Associates, PLLC
205 N. Monroe Street
Media PA 19063

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OCT 17 2008

OFFICE OF PETITIONS

In re Application of :
Jeffrey Alan Middlesworth, et al. :
Application No. 10/705,248 : DECISION GRANTING PETITION
Filed: November 12, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. TRED23 (503 US) :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 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 October 6, 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 1794 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
Petitions Examiner
Office of Petitions

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



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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NORTEL
INTELLECTUAL PROPERTY LAW GROUP
2221 Lakeside Blvd
MS 991/14/B50
RICHARDSON TX 75082-4399

COPY MAILED

JUN 12 2008

OFFICE OF PETITIONS

In re Application of :
Elliott et al. :
Application No. 10/705274 : **DECISION**
Filing or 371(c) Date: 11/10/2003 : **ON PETITION**
Patent No.: 7324506 :
Issue Date: 01/29/2008 :
Attorney Docket No.: 7000-308 :

This is a decision on the Petition Under 37 CFR 1.183, March 3, 2008, 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 properly treated as a petition under 37 CFR 3.81(b)¹. The delay in treating this petition is regretted.

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that Nortel Networks Limited, is the assignee of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

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.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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.


Derek L. Woods
Attorney
Office of Petitions

CC: WITHROW & TERRANOVA, P.L.L.C.
100 REGENCY FOREST DRIVE, SUITE 160
CARY, NC 27518



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P.O. Box 1450
Alexandria, VA 22313-1450
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BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

COPY MAILED

MAR 17 2005

OFFICE OF PETITIONS

In re Application of :
Chris Zegelin :
Application No. 10/705,277 : ON PETITION
Filed: November 10, 2003 :
Attorney Docket No. A35583 :

This is a decision on the petition under 37 CFR 1.137(a), which has been treated as a petition under 37 CFR 1.181, filed February 7, 2005, to withdraw the holding of abandonment.

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" (Notice) mailed February 18, 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 19, 2004. A Notice of Abandonment was mailed on December 2, 2004.

Petitioner contends the Notice was never received by applicant. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See [Withdrawing the Holding of Abandonment When Office Actions Are Not Received](#); Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

Petitioner has submitted the necessary statement and docket records that indicate non-receipt of the Office action. As such, the holding of abandonment is withdrawn.

The \$500.00 petition fee, submitted February 7, 2005, will be refunded to deposit account no. 02-4377.

This application 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.

A handwritten signature in black ink, appearing to read 'EJ Tannouse', with a long horizontal flourish extending to the right.

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



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Alexandria, VA 22313-1450
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ARTHUR J. O'DEA
LEGAL DEPARTMENT
COGNEX CORPORATION
ONE VISION DRIVE
NATICK, MA 01760-2077

COPY MAILED

NOV 22 2006

OFFICE OF PETITIONS

In re Application of :
William Silver, et. al. :
Application No. 10/705,287 : **ON PETITION**
Filed: November 11, 2003 :
Attorney Docket No. C97-050 CON7 :

This is a decision on the petition under 37 CFR 1.137(b), on October 27, 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 June 6, 2006. A Notice of Abandonment was mailed on October 9, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of \$1,400 for payment of the issue fee; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of twenty-nine (29) sheets of drawings containing Figures 1-28, filed October 27, 2006.

This application file is being referred to the Office of Publications for review of the drawings filed on October 27, 2006.

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


Andrea Smith
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 091504

ARTHUR W. FISHER, III
5553 WEST WATERS AVENUE, SUITE 316
TAMPA, FL 33634

SEP 29 2004

In re Application of:	:	
S. MERRILL SKEIST et al.	:	DECISION ON PETITION
Serial No.: 10/705,330	:	TO MAKE SPECIAL
Filed: November 10, 2003	:	
Attorney Docket No.:	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed November 10, 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.

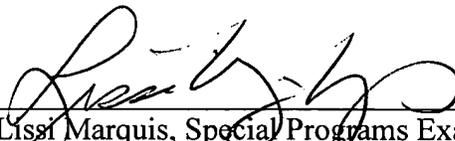
A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from the inventors, S. Merril Skeist and Richard H. Baker, stating that the he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

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



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



**BRADLEY ARANT ROSE & WHITE
INTELLECTUAL PROPERTY DEPARTMENT-NWJ
1819 FIFTH AVENUE NORTH
BIRMINGHAM, AL 35203-2104**

COPY MAILED

JUL 06 2005

OFFICE OF PETITIONS

In re Application of :
Marcus C. Minges :
Application No. 10/705,342 :
Filed: November 10, 2003 :
Attorney Docket No. M2341/53410/NWJ-LIFT :

ON PETITION

This is a decision on the petition under 37 CFR 313(c), filed July 5, 2005, which is being treated under 37 CFR 1.313 (c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 13, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This matter is being referred to Technology Center AU 3617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Wan Laymon
Wan Laymon

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

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 : April 28, 2006

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/705350 Patent No.: 6,866,153

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: _____

Talley

SPE

1723
Art Unit


UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/705,364	11/10/2003	3736	1648	9354-2IP	19	64	4

CONFIRMATION NO. 4621
CORRECTED FILING RECEIPT


OC000000012439538

Julie H. Richardson
 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)

Steven Just, Raleigh, NC;
 David Gallick, Cary, NC;
 Dayn McBee, Cary, NC;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/292,174 11/12/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/10/2004

Projected Publication Date: 05/20/2004

Non-Publication Request: No

Early Publication Request: No

Title

Blood pressure cuffs with resilient support sleeves

Preliminary Class

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

GRANTED

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

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

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

NOT GRANTED

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



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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/705,365	11/10/2003	1754	770	5576-153	1	18	3

CONFIRMATION NO. 4620

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

CORRECTED FILING RECEIPT



OC000000014257985

Date Mailed: 11/02/2004

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

Applicant(s)

Shigeru Nojima, Hiroshima, JAPAN;
 Kozo Iida, Hiroshima, JAPAN;
 Yoshiaki Obayashi, Hiroshima, JAPAN;
 Katsumi Nochi, Hiroshima, JAPAN;
 Masashi Kiyosawa, Nagasaki-ken, JAPAN;

Power of Attorney:

F. Michael Sajovec-31793

Domestic Priority data as claimed by applicant**Foreign Applications**

JAPAN 2003-069105 03/14/2003

If Required, Foreign Filing License Granted: 02/10/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/705,365**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Flue gas denitration catalyst and preparation process thereof

Preliminary Class

502

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

GRANTED

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

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

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

NOT GRANTED

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



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RALEIGH NC 27627

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NOV 24 2004

OFFICE OF PETITIONS

In re Application of :
Nojima et al. :
Application No. 10/705,365 : DECISION GRANTING
Filed: November 10, 2003 : PETITION
Attorney Docket No. 5576-153 :

This is a decision on the petition under 37 CFR 1.10(c), filed October 27, 2004, requesting that the above-identified application be accorded a filing date of November 10, 2003, rather than the filing date of November 12, 2003.

Petitioner alleges that the application was deposited in Express Mail service on November 10, 2003. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV18418590US. Although the date-in is blank, the Express Mail label contains a United States Postal Service (USPS) stamp of November 10, 2003. The same Express Mail label number was placed on the original application papers located in the official file.

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

The application has undergone pre-exam processing and a corrected filing receipt was mailed on November 2, 2004, indicating that the application was accorded a filing date of November 10, 2003.

This matter will be referred to Technology Center 1754 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 10, 2007

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/705,365 Patent No.: 7256155 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**

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

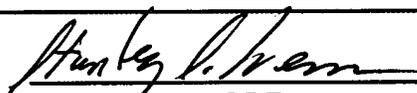
Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments: _____



SPE

1793
Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,381	11/10/2003	Hsing Chen	2011146	4329

7590 03/22/2006
Keith Kline
PRO-TECHTOR INTERNATIONAL SERVICES
20775 Norada Court
Saratoga, CA 95070-3018

EXAMINER

JACKSON JR, JEROME

ART UNIT PAPER NUMBER

2815

DATE MAILED: 03/22/2006

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



MAR 21 2006

Keith Kline
PRO-TECHTOR INTERNATIONAL SERVICES
20775 Norada Court
Saratoga, CA 95070-3018

In re Application of:	:	
Hsing Chen	:	DECISION ON PETITION TO
Serial No.: 10/705,381	:	WITHDRAW THE HOLDING
Filed: November 10, 2003	:	OF ABANDONMENT
Attorney Docket No.: 2011146	:	

This is a decision on the petition to withdraw the holding of abandonment of the above-identified application under 37 C.F.R. § 1.181 filed on May 16, 2005. There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper response to the Office action mailed on September 27, 2004. A Notice of Abandonment was mailed on May 2, 2005.

Petitioner asserts that a response to the Office action of September 27, 2004 was mailed to the PTO on December 21, 2004. In support of this assertion, petitioner submitted a copy of the response which bears a Certificate of Mailing under 37 C.F.R. § 1.8(a) dated December 21, 2004.

The file record does not include the originally submitted response.

REGULATION

37 C.F.R. § 1.8(b) provides:

“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 Patent and Trademark Office, and the application is held to be abandoned or 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 or receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement."

Petitioner attested to his personal knowledge of the mailing of the response on September 21, 2004 and supplied a copy of the response. Accordingly, the petition is deemed to satisfy the conditions set forth in 37 C.F.R. § 1.8(b).

Although the copy of response incorrectly lists the Serial No. as 10/422,200 instead of 10/705,381 on most every paper including the transmittal sheet, the other information such as filing date, inventor, title and attorney docket number are correct. The combination of information should have been sufficient to match the response to the application file. Furthermore, the paper entitled "RESPONSE TO OFFICE ACTION" although having Appl. No. 10/422,200 at the top of the paper, does clearly list the Serial No. 10/705,381 on it.

For the above stated reasons, the petition is granted. The Notice of Abandonment mailed May 2, 2005 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the response submitted with the petition on May 16, 2005 is accepted since the response originally submitted was apparently lost. The Technical Support Staff will enter the copy of the response filed with the petition on May 16, 2005 as a timely response and the examiner will prepare an action based upon that response.

It is noted that the present petition, like the response, incorrectly lists the Serial No. of the present application as 10/422,200 instead of 10/705,381. Applicant is requested to correct their records so that any future paper submitted for the present application correctly lists the Serial No. as 10/705,381.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.



Robert J. Oberleitner, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130

COPY MAILED

JUL 06 2007

In re Application of
Narayanan SUNDARARAJAN, et al
Application No. 10/705,389
Filed: November 10, 2003
Attorney Docket No. 070702009320

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OFFICE OF PETITIONS

**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 6, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Morrison & Foerster LLP has been revoked by the assignee of the patent application on June 9, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

There is an outstanding Office action mailed April 23, 2007 that requires a reply by the applicant.

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

April Wise
April Wise
Petitions Examiner
Office of Petitions

cc: RAJ S. DAVE, PH.D
DARBY & DARBY, P.C.
1500 K STREET, N.W.
WASHINGTON, D.C. 2005-1714


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UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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 Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/705,389	11/10/2003	Narayanan Sundararajan	21058/1206459-US2

CONFIRMATION NO. 4354

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



OC000000024600089

Date Mailed: 06/29/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/09/2007.

- 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


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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/705,389	11/10/2003	Narayanan Sundararajan	21058/1206459-US2

CONFIRMATION NO. 4354

7278
 DARBY & DARBY P.C.
 P.O. BOX 770
 Church Street Station
 New York, NY 10008-0770



Date Mailed: 06/29/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/09/2007.

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.

Deane Goddard

Office of Initial Patent Examination (571) 277-4000, or 1-800-PTO-9199

ATTORNEY/APPLICANT COPY



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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/705,389	11/10/2003	Narayanan Sundararajan	21058/1206459-US2

CONFIRMATION NO. 4354

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



Date Mailed: 06/29/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/09/2007.

- 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).



Deane Gordon

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



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D1W 10-04

James Davis
Woodleigh
Felden Lane
Felden
Herts, UK, HP3 0BF
UNITED KINGDOM

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OCT 15 2004

OFFICE OF PETITIONS

In re Application of
Hogwood et al.

Application No. 10/705,392

Filed: 12 November, 2003

For: SYSTEM AND METHOD FOR INTERACTIVE WAGERING FROM A REMOTE LOCATION

Dear Mr. Davis:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

HOWREY SIMON ARNOLD & WHITE LLP
ATTEN: MARGARET P. DROSOS, DIRECTOR OF IP ADMIN
2941 FAIRVIEW PARK DR, BOX 7
FALLS CHURCH VA 22042



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DW 11-11

Steven Luigi Boffo
577 Upper Brentwood Road
Romford
Essex, UK, RM2 6LH

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OCT 15 2004

OFFICE OF PETITIONS

In re Application of
Hogwood et al.

Application No. 10/705,392

Filed: 12 November, 2003

For: SYSTEM AND METHOD FOR INTERACTIVE WAGERING FROM A REMOTE LOCATION

Dear Mr. Boffo:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

HOWREY SIMON ARNOLD & WHITE LLP
ATTEN: MARGARET P. DROSOS, DIRECTOR OF IP ADMIN
2941 FAIRVIEW PARK DR, BOX 7
FALLS CHURCH VA 22042



HOWREY SIMON ARNOLD & WHITE LLP
ATTEN: MARGARET P. DROSOS, DIRECTOR OF IP ADMIN
2941 FAIRVIEW PARK DR, BOX 7
FALLS CHURCH VA 22042

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OCT 15 2004

OFFICE OF PETITIONS

In re Application of :
Hogwood, Dixon, Carr, Davis, and :
Boffo : DECISION ACCORDING STATUS
Application No. 10/705,392 : UNDER 37 CFR 1.47(a)
Filed: 12 November, 2003 :
Atty Docket No. 02996.0003.CNUS02

This is in response to the petition filed under 37 CFR 1.47(a) on 13 September, 2004.

The petition is **GRANTED**.

Petitioners have shown, via the declaration of Arthur John Dixon, that the non-signing inventors, James Davis and Steven Luigi Boffo, have refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established that a copy of the application was sent by E-mail to the non-signing inventors. However, the non-signing inventor have orally refused to execute the declaration listing them as joint inventors along with William Edward Hogwood, Arthur John Dixon, and Peter John Carr.

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

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

After this decision is mailed, the application will be forwarded to Technology Center 3700 for examination in due course.

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

D. Wood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



Law Office Of Robert E. Kasody,
Professional Corporation
6601 Center Drive West #500
Los Angeles CA 90045

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of :
Scalisi et al. :
Application No. 10/705,414 :
Filed: November 10, 2003 :
Title: Wireless Telephone Service :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of October 10, 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 January 11, 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**.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2600 for further processing.

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

A handwritten signature in black ink, appearing to read "Charlema R. Grant". The signature is written in a cursive style with a prominent initial "C".

Charlema R. Grant
Petitions Attorney
Office of Petitions



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SUITE 3400
CHICAGO IL 60661

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MAR 2 2 2004

OFFICE OF PETITIONS

In re Application of
Torp, et al.
Application No. 10/705,419
Filed: November 10, 2003
Attorney Docket No. 15-DS-000523
DIV2-1 (1248)

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: DECISION ON PETITION
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:

This is a decision on the petition under 37 CFR 1.182, filed February 19, 2004, requesting that the above-identified application be accorded a filing date of November 10, 2003.

The instant application was deposited on November 10, 2003, as a divisional application of prior application no. 10/054,033. However, the instant application omitted a copy of the drawings. Accordingly, on January 5, 2004, the Office of Initial Patent Examination properly mailed a "Notice of Incomplete Nonprovisional Application", requiring drawings and stating that the filing date would be the date of receipt of the drawings.

In response, petitioner filed the present petition on February 19, 2004, together with a copy of the omitted drawings. Petitioner does not dispute the fact that no drawings were filed in the instant application. Rather, petitioner points out that he incorporated prior application 10/054,033 by reference in the application transmittal form.

With respect to the practice of incorporation by reference, the Manual of Patent Examining Procedure states:

Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be

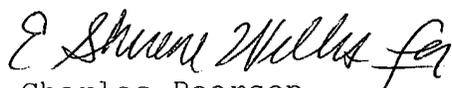
entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered.¹

Incorporation by reference is intended as a safeguard to protect an applicant who in a continuation or divisional application has omitted a "portion" of the application on filing.² Here, petitioner omitted drawings in their entirety. As at least one drawing was necessary to accord the instant application a filing date, no filing date was accorded at the time of filing. However, petitioner properly incorporated prior application no. 10/054,033 by reference. In addition, petitioner submitted the omitted drawings and paid the \$130 petition fee. While petitioner has not specifically submitted an amendment seeking entry of the drawings, the petition will be construed as such. Accordingly, the above identified application is entitled to a filing date of November 10, 2003.

In view thereof, the petition is GRANTED.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of November 10, 2003, using the application papers received in the Office on that date and the 11 sheets of drawings supplied with the petition filed February 19, 2004. Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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



Charles Pearson
Director
Office of Petitions

¹ MPEP 201.06(c) (emphasis added).

² See id.



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

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MAR 22 2004

OFFICE OF PETITIONS

In re Application of :
 Torp, et al. :
 Application No. 10/705,419 : DECISION ON PETITION
 Filed: November 10, 2003 :
 Attorney Docket No. 15-DS-000523 :
 DIV2-1 (1248 :

This is a decision on the petition under 37 CFR 1.182, filed February 19, 2004, requesting that the above-identified application be accorded a filing date of November 10, 2003.

The instant application was deposited on November 10, 2003, as a divisional application of prior application no. 10/054,033. However, the instant application omitted a copy of the drawings. Accordingly, on January 5, 2004, the Office of Initial Patent Examination properly mailed a "Notice of Incomplete Nonprovisional Application", requiring drawings and stating that the filing date would be the date of receipt of the drawings.

In response, petitioner filed the present petition on February 19, 2004, together with a copy of the omitted drawings. Petitioner does not dispute the fact that no drawings were filed in the instant application. Rather, petitioner points out that he incorporated prior application 10/054,033 by reference in the application transmittal form.

With respect to the practice of incorporation by reference, the Manual of Patent Examining Procedure states:

Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be

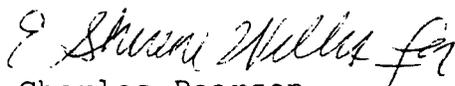
entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered.¹

Incorporation by reference is intended as a safeguard to protect an applicant who in a continuation or divisional application has omitted a "portion" of the application on filing.² Here, petitioner omitted drawings in their entirety. As at least one drawing was necessary to accord the instant application a filing date, no filing date was accorded at the time of filing. However, petitioner properly incorporated prior application no. 10/054,033 by reference. In addition, petitioner submitted the omitted drawings and paid the \$130 petition fee. While petitioner has not specifically submitted an amendment seeking entry of the drawings, the petition will be construed as such. Accordingly, the above identified application is entitled to a filing date of November 10, 2003.

In view thereof, the petition is GRANTED.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of November 10, 2003, using the application papers received in the Office on that date and the 11 sheets of drawings supplied with the petition filed February 19, 2004. Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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



Charles Pearson
Director
Office of Petitions

¹ MPEP 201.06(c) (emphasis added).

² See id.



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TESTA, HURWITZ, & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MASSACHUSETTS 02110

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AUG 03 2004

OFFICE OF PETITIONS

In re Application of :
Horvath, et al. :
Application No. 10/705,446 : ON PETITION
Filed: November 10, 2003 :
Attorney Docket No. UDL-004D2 :

This is a decision on the petition filed July 2, 2004, requesting that the above-identified application be accorded a filing date of November 10, 2003, including page 104 of the specification.

The application was submitted on November 10, 2003. However, on May 13, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice" that stated the application had been accorded a filing date, and that page 104 of the specification appears to have been omitted.

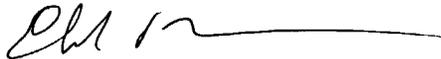
In response, on July 2, 2004, the present petition was filed wherein petitioner argues page 104 of the specification was filed on November 10, 2003. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of one hundred four (104) pages of specification. A review of the application file indicates the presence of one hundred three (103) pages of specification. It is assumed that missing page (page 104) of specification was misplaced by the Office.

In view of the above, the petition is granted.

The \$130.00 petition fee will be refunded to deposit account no. 20-0531.

This application will be returned to OIPE for review of the "Response to Notice To Comply," submitted July 2, 2004, and for further processing with a filing date of November 10, 2003, using the copy of page 104 of the specification, supplied on July 2, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

A handwritten signature in cursive script, appearing to read 'EJ Tannouse', followed by a horizontal line.

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



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BUCHANAN, INGERSOLL & ROONEY LLP
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

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JUN 11 2008

OFFICE OF PETITIONS

In re Application of :
Joseph L. Witztum et al :
Application No. 10/705,448 : DECISION GRANTING PETITION
Filed: November 11, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 1034123-000013 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 10, 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, RCE submitted on April 10, 2007; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection mailed September 25, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1641 to consider the reply submitted on September 10, 2007, and to consider the Request for Continued Examination of March 29, 2007.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions



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MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

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MAR 30 2009

In re Application of
Eilon **BARNEA, et al.**
Application No. 10/705,459
Filed: November 12, 2003
Attorney Docket No. **26884**

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OFFICE OF PETITIONS

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 20, 2008, to revive the above-identified application.

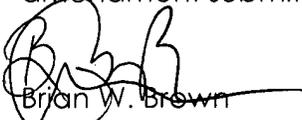
The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 12, 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)(II)(A)(2). Accordingly, the date of abandonment of this application is June 13, 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) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 1644 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.


Brian W. Brown
Petitions Examiner
Office of Petitions



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Richard L. Miller
12 Parkside, Drive
Dix Hills, NY 11746-4879

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AUG 25 2005

Director's Office
Group 3700

In re Application of :
Robert J. Noiseux :
Serial No. 10/705,478 : **DECISION ON PETITION**
Filed: November 05, 2004 : **TO MAKE SPECIAL**

For: **BOTTLED WATER SOURCE TO SOFT DRINK DISPENSER
MACHINE**

Applicant's petition, filed November 04, 2004, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700
(571) 272-3750

rt: 8/25/05



OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

COPY MAILED

APR 08 2004

OFFICE OF PETITIONS

In re Application of
Kohama, et al.
Application No. 10/705,497
Filed: November 12, 2003
Attorney Docket No. 113931.01
For: SCANNING DEVICE AND
METHOD INCLUDING ELECTRIC
CHARGE MOVEMENT

:
:
: DECISION ON
: PETITION
:
:

This is a decision on the petition, filed February 19, 2004, requesting that Figure 24 be accorded a filing date of November 12, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was filed on November 12, 2003. On February 11, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice) informing petitioners that Figure 24, as described in the specification, appeared to have been omitted.

Petitioners request that Figure 24 be accorded a filing date of November 12, 2003 on the basis that 40 sheets of drawing figures, including Figure 24, were received in the Patent and Trademark Office (PTO) on November 12, 2003. In support, the instant petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing November 12, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 40 sheets of formal drawings.

The return postcard constitutes *prima facie* evidence that 40 sheets of formal drawing figures were filed on November 12, 2003. MPEP 503. A review of the application file reveals that there are 39 sheets of drawing figures present.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**. Pursuant to petitioners' authorization, deposit account no. 15-0461 will be credited the \$130.00 petition fee submitted on February 19, 2004.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **November 12, 2003**, using the copy of Figure 24 submitted with the instant petition. Office records will be corrected to show that 40 sheets of drawings were present on filing.

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

A handwritten signature in cursive script, appearing to read "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

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

COPY MAILED

AUG 02 2007

In re Application of
YAMAKAWA, et al.
Application No. 10/705,515
Filed: December 31, 2003
Attorney Docket No. 042390.P15614

OFFICE OF PETITIONS

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 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 April 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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


Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DARBY & DARBY P.C.**
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

COFC

10/705515



PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent of:)	
Boldt Jr. et al)	
Patent No: 7,170,480)	
Issue Date: 1/30/07)	Date: 2/14/07
For: VIDEO DISPLAY APPARATUS)	Tustin, California

REQUEST FOR CERTIFICATE OF CORRECTION

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

Dear Sir:

In the matter of the above-identified Letters Patent, it is requested that a Certificate of Correction be issued in view of printing errors by the Patent Office appearing in the patent.

Enclosed herewith is Patent Office form PTO/SB/44 noting the errors appearing in the patent.

Respectfully submitted,

JACKSON LAW CORPORATION

Harold L. Jackson
Reg. No.: 17,766
14751 Plaza Dr., Ste. N
Tustin, CA 92780
(714) 832-2080

Certificate
FEB 26 2007
of Correction

FEB 27 2007

**UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**Page 1 of 1

PATENT NO. : 7,170,480
APPLICATION NO.: 10/705,515
ISSUE DATE : 1/30/2007
INVENTOR(S) : Boldt Jr. et al

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 1, line 6, "Nov. 01, 2000" should read --Nov. 11, 2000--.

The Column 1, Line 6, recites "application Ser.
No. 09/703,916, filed Nov. 01, 2000 entitled"
The application number 09/703,916 mature in US patent #
6,657,605 and filing date of the patent number is
Nov. 1, 2000.

Therefore certification correction is denied.

/Prabodh Dharia/

01/26/2009

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Jackson Law Corporation
14751 Plaza Dr, Ste. N
Tustin, CA 92780

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.

FEB 27 2007



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

2 | 12 | 09
Patent No. :7170480
Inventor(s) :Boldt Jr. et al.
Issued : 1/30/2007
Title : VIDEO DISPLAY APPARATUS
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals by the examiner that the col. 1 line 6 recites application Ser. No. 09/703916, filed Nov. 01, 2000 entitled the application number 09/703,916 mature in the US patent # 6,657,605 and filing date of the patent number is Nov. 1, 2000. 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

JACKSON LAW CORPORATION
14751 PLAZA DR, STE. N
TUSTIN, CA 92780

HR/MD



Paper No.

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

MAILED

JUL 23 2010

OFFICE OF PETITIONS

In re Application of :
Robl, et al. : DECISION ON APPLICATION
Application No. 10/705,519 : FOR
Filed: November 10, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No.
50195/023003 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER UNDER 37 CFR 1.705(d)," filed December 3 2008.¹ Applicants request that the patent term adjustment of two hundred sixty three (263) days be adjusted to a determination of four hundred and sixty nine (469) days.

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

On September 30, 2008, the above-identified application matured into US Patent No. 7,429,690 with a patent term adjustment of 263 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), paid on December 1, 2008. 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 total patent term adjustment of 469 days.

¹ Note the certificate of mailing date for petition was 12/1/2008.

In view of the Federal Circuit decision *Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010) the relief requested is granted.

The Office will sua sponte issue a certificate of correction reflecting this decision.

Telephone inquiries specific to this decision should be directed to Maria Nuzzolillo, Legal Advisor, at (571) 272-8150, or the undersigned at 571-272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

cc: Draft Certificate of Correction
Adjusted PTA calculation

PALM INTRANET

Day : Monday
Date: 7/19/2010
Time: 12:41:19

PTA Calculations for Application: 10/705519			
Application Filing Date:	11/10/2003	PTO Delay (PTO):	455
Issue Date of Patent:	09/30/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	192
Post-Issue Petitions:	0	Total PTA (days):	469
PTO Delay Adjustment:	206		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
90	07/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	206		
80.5	09/10/2008	PTA 36 MONTHS			
80	09/30/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
79	08/28/2008	EXPORT TO FINAL DATA CAPTURE			
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58	03/25/2008	DATE FORWARDED TO EXAMINER			
57	02/11/2008	RESPONSE AFTER NON-FINAL ACTION		94	48
56	02/11/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
55	01/18/2008	EMAIL NOTIFICATION			
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29	09/15/2006	REFERENCE CAPTURE ON IDS			
28.7	09/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	24
28	09/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

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24	09/15/2006	RESPONSE AFTER NON-FINAL ACTION		3	23
23	06/12/2006	MAIL NON-FINAL REJECTION			
22	06/08/2006	NON-FINAL REJECTION			
21	05/04/2006	DATE FORWARDED TO EXAMINER			
20	04/27/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
19	04/10/2006	MAIL RESTRICTION REQUIREMENT	455		-1
18	04/03/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
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6	10/21/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
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2	12/21/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/10/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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 Back to [OASIS](#) Home page

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,449,019 B2

DATED : November 11, 2008

Draft

INVENTOR(S) : Uchida 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 (702) days

Delete the phrase "by 702 days" and insert – by 1081 days--

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,429,690 B2

DATED : September 30, 2008

Draft

INVENTOR(S) : Robl, 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 (469) days

Delete the phrase "by 263 days" and insert – by 469 days--

PALM INTRANET

Day : Monday
Date: 7/19/2010
Time: 12:08:16

PTA Calculations for Application: 10/705519			
Application Filing Date:	11/10/2003	PTO Delay (PTO):	455
Issue Date of Patent:	09/30/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	192
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PTA/PTE Calculations for Application EXPO-PTA/PTE V1.02

27	09/15/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
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Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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7/19/2010



**KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004**

COPY MAILED

JUL 02 2004

OFFICE OF PETITIONS

In re Application of :
Martin Hans et al :
Application No. 10/705,523 : **ON PETITION**
Filed: November 10, 2003 :
Attorney Docket No. 10191/2479B :

This is in response to the petition under 37 CFR 1.47(a), filed May 21, 2004.

The petition is dismissed.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

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

As to item (1), petitioner has failed to adequately show or provide proof that the nonsigning inventor Detlef Lechner refuses to join in the application after having been presented with the application papers (specification, claims, and drawings). There is no indication whether Mr. Lechner was presented with a copy of the complete application papers. If Mr. Lechner was not presented with a copy of the application papers, then he could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Did Mr. Lechner receive the application papers? See MPEP 409.03(d). Unless petitioner can show that a copy of the application papers was presented to Mr. Lechner, then petitioner will have to mail a copy of the complete application papers to Mr. Lechner at his last known address, return receipts requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. 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 certified mail return receipt, cover letter of instructions, telegrams, etc., to support a showing that the nonsigning inventor has refused to sign the declaration after having been presented with the application papers. See MPEP 409.03(d).

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

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

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

As to item (4), a statement of the inventor's 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

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 related to this decision should be directed to Wan Laymon at (703) 306-5685.

A handwritten signature in cursive script, appearing to read "Frances Hicks".

Frances Hicks

Lead Petitions Examiner

Office of Petitions

Office of the Deputy Commissioner

for Patent Examination Policy



KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

COPY MAILED

NOV 18 2004

OFFICE OF PETITIONS

In re Application of	:
Martin Hans et al	:
Application No. 10/705,523	: DECISION NOTING JOINDER
Filed: November 10, 2003	: OF INVENTOR AND PETITION
For: METHOD OF ASSIGNING	: UNDER 37 CFR 1.47(a) MOOT
TRANSMISSION CHANNELS IN A	:
TELECOMMUNICATIONS NETWORK	:
AND USER STATION	:

Papers filed on September 27, 2004 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed July 2, 2004, included a Declaration signed by previously nonsigning inventor Detlef Lechner 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 file does not have any rule 1.47(a) status. This application file need not be referred to this office for any further consideration under 37 CFR 1.47(a).

This matter is being referred to Technology Center AU 2681 for examination in due course.

Inquiries related to this decision may be addressed to Wan Laymon at (571) 272-3220.

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



PAUL ORAZI
BOX 610192
N MIAMI FL 33261

COPY MAILED

DEC 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Paul Orazi	:	
Application No. 10/705,529	:	ON PETITION
Filed: November 12, 2003	:	
Title: Wing Assemblies for Aircraft	:	

This is a decision on the Petition for Revival of an Application Abandoned Unavoidably Under 37 CFR 1.137(a), filed November 7, 2006.

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. 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)."

The above-identified application became abandoned for failure to timely filed a reply in response to the non-final Office action mailed March 21, 2006. This Office action set a shortened period for reply of one (1) month. Extensions of time under 37 CFR 1.136(a) were available. No extensions of time having been obtained and no reply having been received, the application became abandoned on April 22, 2006. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

Consideration of petition under 1.137(a) (Unavoidable Delay)

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(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 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).

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."¹

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.²

Petitioner asserts that he could not have filed a response to the Office action because he was in the hospital from April 13, 2006 to May 17, 2006. However, petitioner has not explained why he was unavoidably prevented from purchasing an extension of time and filing a reply after that date. Had petitioner purchased a five month extension of time, the last day petitioner could have filed a reply would have been September 21, 2006.

If petitioner can not establish that the entire period of delay was unavoidable, petitioner may revive the above-identified application under the provisions of 37 CFR 1.137(b), unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) (currently \$750 for a small entity); (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

¹ In re Mattulath, 38 App. D.C. 497, 514-15 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

² See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

A copy of the form for a petition to revive due to unintentional delay is enclosed for petitioner's convenience.

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

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

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

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



Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/64 (2 pages)

**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.

[Page 1 of 2]

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

PAUL ORAZI
BOX 610192
N MIAMI FL 33261

COPY MAILED

MAR 26 2007

OFFICE OF PETITIONS

In re Application of :
Paul Orazi :
Application No. 10/705,529 : ON PETITION
Filed: November 12, 2003 :
Title: Wing Assemblies for Aircraft :

This is a decision on the Petition for Revival of an Application Abandoned Unavoidably Under 37 CFR 1.137(b), filed January 12, 2007.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed March 21, 2006. This Office action set a shortened period for reply of one (1) month. Extensions of time under 37 CFR 1.136(a) were available. No extensions of time having been obtained and no reply having been received, the application became abandoned on April 22, 2006. Applicant filed a petition to revive under 37 CFR 1.137(a) on November 7, 2006. However, the petition was dismissed in a decision mailed on December 15, 2006.

With the instant petition, applicant paid the petition fee and made the proper statement of unintentional delay. The required reply in the form of an Amendment was previously filed on November 7, 2006.

The matter is being forwarded to Group Art Unit 1744 for consideration of the Amendment filed November 7, 2006.

Telephone inquiries concerning 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

MICHAEL I KROLL
171 STILL WELL LANE
SYOSSET, NY 11791

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OCT 06 2008

In re Application of
Karen Norris
Application No. 10/705,569
Filed: November 10, 2003
Attorney Docket No. KN-1-JS

: **OFFICE OF PETITIONS**
:
: **DECISION ON PETITION**
:
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before February 28, 2008, as required by the Notice of Allowance and Fee(s) Due mailed November 28, 2007. Accordingly, the date of abandonment of this application is February 29, 2008. A Notice of Abandonment was mailed March 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$720.00, (2) the petition fee of \$770.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant : Michael Donovan Mitchell : DECISION ON REQUEST FOR
Patent Number : 7614508 : RECALCULATION of PATENT
Issue Date : 11/10/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/705,572 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/11/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

SAILE ACKERMAN LLC
28 DAVIS AVENUE
POUGHKEEPSIE NY 12603

COPY MAILED

DEC 15 2008

In re Application of :
Anand ANANDAKUMAR :
Application No. 10/705,597 :
Filed: November 10, 2003 :
Attorney Docket No. JA03-001 :
DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed November 19, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Steven A. Moore does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: STEVEN A. MOORE
11250 EL CAMINO REAL
SAN DIEGO, CA 92130



ARMAND M. VOZZO, JR., ESQUIRE
19 SHORT ROAD
DOYLESTOWN PA 18901

COPY MAILED

FEB 02 2005

OFFICE OF PETITIONS

In re Application of
Edward Magid
Application No. 10/705,621
Filed: November 10, 2003
Attorney Docket No.: P662

:
: **DECISION ON PETITION**
:
:
:

This is a decision on the petition under 37 CFR 1.137(a), filed November 22, 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(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned on October 14, 2004, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed July 13, 2004, which set a three (3) month statutory period for reply. Petitioner filed an Issue Fee Transmittal on October 14, 2004 (certificate of mailing October 11, 2004) with a check in the amount of \$985.00, for the amount of the issue fee and publication fee. When the USPTO attempted to collect the funds, the check was returned by the bank it was drawn on as insufficient funds were in the account to satisfy the disbursement. As the issue fee was not timely paid, the application became abandoned. Accordingly, a Notice of Abandonment was mailed November 12, 2004.

In response, the present petition was filed accompanied by the petition fee, issue fee, and publication fee. Petitioner asserts that the check was drawn on an American Express business account and that he did not present the check to the USPTO until after he'd verified that the funds were available but that the delay occurred because for some unexpected and unexplained reason, American Express would not honor the check upon presentation.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be

accompanied by:

- (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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 § 1.17(l);
- (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
- (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (3) above.

SHOWING OF UNAVOIDABLE DELAY

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.¹

¹In 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).

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.²

The showing of record is that the delay in payment of the issue fee occurred because there was insufficient funds in the account the check used to pay the fees was drawn on. As it was petitioner's responsibility to ensure that the account contained sufficient funds, in spite of his efforts to make that assurance, the account was insufficient nonetheless and petitioner has not presented an acceptable explanation for the deficiency.

Petitioner has not established that the delay was unavoidable. Rather than unavoidable delay, the record indicates a lack of diligence on the part of petitioner in maintaining an adequate balance in his business account with American Express. In order to establish unavoidable delay, petitioner must demonstrate diligence in prosecution of the matter,³ and the record does not establish that petitioner took all action necessary for prosecution of this application in satisfaction of 37 CFR 1.137(a). If such were the case, petitioner should have at least provided a statement from American Express that it was their error that caused the check not to have been honored or in the alternative, petitioner should have had back-up perhaps in the form of a deposit account or overdraft protection. The showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). As petitioner has presented no showing of unavoidable delay, the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)⁴,

²Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

³See Douglas v. Manbeck, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), aff'd 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992).

⁴Effective 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.

which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

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

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

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

By FAX: (703)308-6916
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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



ARMAND M. VOZZO, JR., ESQUIRE
19 SHORT ROAD
DOYLESTOWN PA 18901

COPY MAILED

MAR 07 2005

OFFICE OF PETITIONS

In re Application of
Edward Magid
Application No. 10/705,621
Filed: November 10, 2003
Attorney Docket No.: P662

:
: DECISION ON PETITION
:
:
:

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on October 14, 2004, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed July 13, 2004, which set a three (3) month statutory period for reply. Petitioner filed an Issue Fee Transmittal on October 14, 2004 (certificate of mailing October 11, 2004) with a check in the amount of \$985.00, for the amount of the issue fee and publication fee. When the USPTO attempted to collect the funds, the check was returned by the bank it was drawn on as insufficient funds were in the account to satisfy the disbursement. As the issue fee was not timely paid, the application became abandoned. Accordingly, a Notice of Abandonment was mailed November 12, 2004. A petition to revive was filed November 22, 2004 under 37 CFR 1.137(a) but was dismissed in a decision mailed February 2, 2005.

Comes now petitioner with this petition under the unintentional standard.

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;

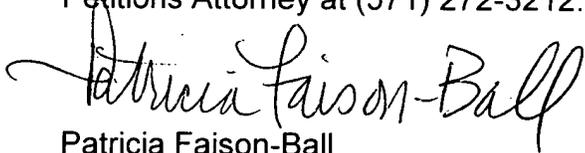
(2) the petition fee required by 37 CFR 1.17(l);

(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.

Since the issue fee was previously paid with the petition filed November 22, 2004, and all other requirements having been met, this matter is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink that reads "Patricia Faison-Ball". The signature is written in a cursive, flowing style.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



April 05, 2004

Spellman High Voltage Electronics Corporation
475 Wireless Boulevard
Hauppauge, NY 11788

APR - 7 2004

In re Application of:	:	
SKEIST, <i>et al.</i>	:	
Application No. 10/705,625	:	DECISION ON PETITION
Filed: November 10, 2003	:	TO MAKE SPECIAL
For: ENERGY TRANSFER	:	
MULTIPLEXER.	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed November 10, 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 Declaration from each of the Inventors, Mr. Skeist and Mr. Baker, as a showing that applicant is sixty-five (65) years of age or more.

Accordingly, the petition is granted.

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

If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such, s/he 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.

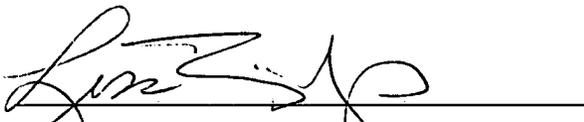
If the examiner finds any interfering application for the same subject matter, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Inquires regarding this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.



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

PATENT APPLICATION



10705625

PATENT APPLICATION



PATENT APPLICATION



PATENT APPLICATION





PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

COPY MAILED

MAY 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Brian J. Thompson	:	
Application No. 10/705,632	:	DECISION ON PETITION
Filed: November 10, 2003	:	TO WITHDRAW
Attorney Docket No. 1373-PA01	:	FROM RECORD
	:	

This is a decision on the request to withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed September 2, 2005.

The request is **APPROVED**.

A review of the file record indicates that Stephen C. Beuerle and the attorneys associated with Customer Number 27189: (1) do not have power of attorney in this patent application; and (2) have been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, the practitioners associated with Customer Number 27189 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence address of record by Gary L. Eastman, the duly appointed attorney of record, to the address associated with Customer Number 31555 has been accepted. All future communications from the Office will be directed to the address below until otherwise properly notified by the applicant.

A non-final Office action setting a three month shortened statutory period was mailed on October 24, 2005, with extensions of time being available pursuant to the provisions of 37 C.F.R. § 1.136(a). On March 28, 2006 (certificate of mailing date of March 24, 2006), the Office received a reply to the non-final Office action and a two month extension of time fee. Accordingly, this application is being referred to Technology Center AU 3637 for appropriate action on the reply received March 28, 2006.

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


 Frances Hicks
 Petitions Examiner
 Office of Petitions

cc:

Gary L. Eastman
707 Broadway Street
Suite 1800
San Diego, CA 92101



UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/705,643	11/10/2003	2875	1356	C1104-7061.20	23	43	5

CONFIRMATION NO. 4766

37462
 LOWRIE, LANDO & ANASTASI
 RIVERFRONT OFFICE
 ONE MAIN STREET, ELEVENTH FLOOR
 CAMBRIDGE, MA 02142

CORRECTED FILING RECEIPT



OC000000012462310

Date Mailed: 04/27/2004

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

Applicant(s)

Alfred D. Ducharme, Tewksbury, MA;
 Frederick M. Morgan, Quincy, MA;
 Ihor A. Lys, Boston, MA;
 Kevin J. Dowling, Westford, MA;
 George G. Mueller, Boston, MA;

Assignment For Published Patent Application

Color Kinetics, Incorporated, Boston, MA;

Domestic Priority data as claimed by applicant

This application is a CON of 09/716,819 11/20/2000
 which claims benefit of 60/166,533 11/18/1999
 and claims benefit of 60/201,140 05/02/2000
 and claims benefit of 60/235,678 09/27/2000

Foreign Applications

If Required, Foreign Filing License Granted: 02/24/2004

Projected Publication Date: 06/03/2004

Non-Publication Request: No

Early Publication Request: No

Title

Methods and apparatus for generating and modulating illumination conditions

Preliminary Class

362

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

GRANTED

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

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

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

NOT GRANTED

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



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Shipment Details

You entered EV30 8899 101U S

Your item was delivered at 7:25 am on November 12, 2003 in ALEXANDRIA, VA 22313 to PATENT OFFICE. The item was signed for by G TURNER.

Here is what happened earlier:

- ARRIVAL AT PICK-UP-POINT, November 11, 2003, 9:02 am, ALEXANDRIA, VA 22313
- ARRIVAL AT UNIT, November 11, 2003, 8:26 am, DULLES, VA 20102
- ACCEPTANCE, November 10, 2003, 4:38 pm, CAMBRIDGE, MA 02142

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**FOLEY HOAG
PATENT GROUP,
WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110**

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SEP 30 2005

OFFICE OF PETITIONS

In re Application of :
Alfred D. Ducharme et al : DECISION ON PETITIONS
Application No. 10/705,643 : UNDER 37 CFR 1.78(a)(3) AND
Filed: November 10, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. CKB-061.02 :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 20, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120, and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

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

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(ii). Additionally, intermediate Application No. 09/213,581, filed December 17, 1998, was filed within twelve months of the filing date of the prior-filed provisional applications, for which priority is claimed. The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the above-noted, prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

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

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

Any questions concerning this matter may be directed to 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.

This matter is being referred to Technology Center Art Unit 2875 for appropriate action on the amendment submitted June 20, 2005, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed 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.



Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT : Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : Aug. 22, 2008

Paper No.: 05212009

TO SPE OF : ART UNIT 2800

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/705643 Patent No.: 7387405

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**

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: _____

Jong-Suk Lee 5/21/09
JONG-SUK (JAMES) LEE
SUPERVISORY PATENT EXAMINER



WOODCOCK WASHBURN
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

COPY MAILED

JUN 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey L. McElray Sr. et al	:	
Application No. 10/705,645	:	DECISION ON PETITION
Filed: November 10, 2003	:	TO WITHDRAW
Attorney Docket No. ABMS-0205/B000291	:	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 6, 2006.

The petition is **APPROVED**.

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

The request was signed by Steven B. Samuels on behalf of all attorneys/agents of record who are associated with customer No. 23377.

All attorneys/agents associated with customer No. 2337 have been withdrawn.

Applicants are 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 inventor at the first copies address below until otherwise properly notified by the applicants.

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

This application is being referred to Technology Center AU 2836.



David Bucal
Petitions Examiner
Office of Petitions

cc: JEFFREY L. MCELRAY, SR.
1025 HOME FARM ROAD
WENDELL, NC 27591

LEGAL DEPARTMENT-4U6
29801 EUCLID AVENUE
WICKLIFFE, OH 44092



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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

COPY MAILED

AUG 30 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Peter Callas et al :
Application No. 10/705,652 :
Filed: November 10, 2003 :
Attorney Docket No. 80121-08601 :

This is a decision on the petition filed May 3, 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 in a timely manner in reply to the Notice of Allowance mailed May 4, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 5, 2006.

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

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

This matter is being referred to the Publishing Division for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,657	11/10/2003	Jeremy Thaler	10770013010202	6140
37211	7590	07/06/2009	EXAMINER	
BASCH & NICKERSON LLP			PRATT, HELEN F	
1777 PENFIELD ROAD			ART UNIT	PAPER NUMBER
PENFIELD, NY 14526			1794	
			NOTIFICATION DATE	DELIVERY MODE
			07/06/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

dneels@bnpatentlaw.com
dmasters@bnpatentlaw.com
mnickerson@bnpatentlaw.com



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Commissioner for Patents
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Alexandria, VA 22313-1450
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wk

Mailed : JUL - 6 2009

In re Application of
Jeremy Thaler et al.

Serial No. 10/705,657

Filed: November 10, 2003

For: Peanut Butter With An Organic Stabilizer And Method For
Manufacture Thereof

:
:
: DECISION ON
: PETITION
:

This is a decision on Applicants' request that the Commissioner intervenes in this application and directs the Examiner to provide a timely and comprehensive examination filed on April 6, 2009.

A final rejection was mailed on January 23, 2008. A pre-appeal conference decision to reopen prosecution was mailed on July 30, 2008. The Examiner issued a non-final rejection on August 22, 2008. Applicants filed an Appeal Brief on 10/20/08. The Examiner's Answer was mailed out on February 6, 2009 and Applicants filed a reply brief on April 6, 2009.

Applicants assert that the Examiner issued an Examiner's Answer which set forth new grounds for rejection by Examiner's Answer and a Supplemental submission dated March 25, 2009 and has done so without preparing a revised Examiner's answer that incorporates "reworked" rejections and providing Applicant's an opportunity to either elect to re-open prosecution or to proceed on appeal. Applicants assert that the Examiner's Answer and Supplemental communication are inconsistent with the non-final rejections of August 2008 that were appealed.

The Office Action from August 22, 2008 rejected claims 1, 10, 12-18, 20, and 22-23 under 35 U.S.C. 103(a) over Liu, Hinds, Harris and Bailey's Industrial Oil and Fat Products. Further claims 1, 3-8, 10, 12-18, 20, and 22-23 were also rejected under 103 (a) in view of Hinds and Baileys Industrial Oil and Fat Products. Claim 24 was rejected under 103(a) over Hinds and Liu. Claims 9, 11, 19 and 24 were rejected under over Hinds, Harris and Krisinski. Claims 9, 11, 19 and 24 were also rejected under 103(a) over Hinds, Harris and Krisinski.

The Examiner's Answer from February 6, 2009 rejected claims 1, 10, 12-18, 20, and 22-23 under 35 U.S.C. 103(a) over Liu, Hinds and Harris. Further claims 1, 3-8, 10, 12-18, 20, and 22-23 were also rejected under 103 (a) in view of Hinds. Claims 9, 11, 19 and 24 were rejected under 103(a) over Liu in view of Hinds, Harris and Krisinski. Claims 9, 11, 19 and 24 were also rejected under 103(a) over Hinds and Krisinski.

The Examiner sent out a supplemental Communication on March 25, 2009 to address inconsistencies of the Examiner's Answer with the non-final rejection of August 22, 2008.

Upon review, the Examiner's Answer dropped the use of the reference "Baileys Industrial Oil and Fat Product" under the rejection of claims 1, 3-8, 10, 12-18, 20 and 22-23. The rejection to claim 24 over Hinds and Liu was dropped. The rejection of claims 9, 11, 19 and 24 under Hinds, Harris and Krisinski was changed to also include the reference Liu. The Examiner asserts that the addition of the Liu reference was to be consistent with rejection from the non-final office action of August 22, 2008. The rejection to claims 9, 11, 19 and 24 that were rejected under 103(a) to Hinds, Harris and Krisinski was changed to only be over Hinds and Krisinski.

In the non-final office action preceding the Examiner's Answer, Liu was used to reject claims 1, 10, 12-18, 20, and 22-24. The Examiner's Answer uses Liu to reject claims 1, 9-20 and 22-24. Claims 9, 11 and 19 were not previously rejected under Liu in the non-final office action. 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). Claims 9, 11 and 19 were not previously rejected under Liu in the non-final office action.

DECISION

The petition is **GRANTED**.

The examiner is required to send a corrected examiner's answer that identifies the rejection as a new ground of rejection and includes the approval of the TC Director or designee. The appellant may then file either a request that prosecution be reopened by filing a reply under 37 CFR 1.111, or a request that the appeal be maintained by filing a reply brief or resubmitting the previously-filed reply brief, within two months from the mailing of the corrected answer

/Gregory L Mills/

Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

Duane C. Basch
BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD NY 14526



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,657	11/10/2003	Jeremy Thaler	10770013010202	6140
37211	7590	12/15/2009	EXAMINER	
BASCH & NICKERSON LLP 1777 PENFIELD ROAD PENFIELD, NY 14526			PRATT, HELEN F	
			ART UNIT	PAPER NUMBER
			1794	
			NOTIFICATION DATE	DELIVERY MODE
			12/15/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

dneels@bnpatentlaw.com
dmasters@bnpatentlaw.com
mnickerson@bnpatentlaw.com



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Alexandria, VA 22313-1450
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12/15/09

wk

Mailed :	:	
In re Application of	:	DECISION ON
Jeremy Thaler et al.	:	PETITION
Serial No. 10/705,657	:	
Filed: November 10, 2003	:	
For: Peanut Butter With An Organic Stabilizer And Method For Manufacture Thereof		

This is a decision on Applicants' second request that the Commissioner intervene in this application and directs the Examiner to provide a timely and comprehensive examination filed on April 6, 2009.

A final rejection was mailed on January 23, 2008. A pre-appeal conference decision to reopen prosecution was mailed on July 30, 2008. The Examiner issued a non-final rejection on August 22, 2008. Applicants filed an Appeal Brief on 10/20/08. The Examiner's Answer was mailed out on February 6, 2009 and Applicants filed a reply brief on April 6, 2009.

Applicants assert that the Examiner issued an Examiner's Answer which set forth new grounds for rejection by Examiner's Answer and a Supplemental submission dated March 25, 2009 and has done so without preparing a revived Examiner's answer that incorporates "reworked" rejections and providing Applicant's an opportunity to either elect to re-open prosecution or to proceed on appeal. Applicants assert that the Examiner's Answer and Supplemental communication are inconsistent with the non-final rejections of August 2008 that were appealed.

The Office Action from August 22, 2008 rejected claims 1, 10, 12-18, 20, and 22-23 under 35 U.S.C. 103(a) over Liu, Hinds, Harris and Bailey's Industrial Oil and Fat Products. Further claims 1, 3-8, 10, 12-18, 20, and 22-23 were also rejected under 103 (a) in view of Hinds and Baileys Industrial Oil and Fat Products. Claim 24 was rejected under 103(a) over Hinds and Liu. Claims 9, 11, 19 and 24 were rejected under over Hinds, Harris and Krisinski. Claims 9, 11, 19 and 24 were also rejected under 103(a) over Hinds, Harris and Krisinski.

The Examiner's Answer from February 6, 2009 rejected claims 1, 10, 12-18, 20, and 22-23 under 35 U.S.C. 103(a) over Liu, Hinds and Harris. Further claims 1, 3-8, 10, 12-18, 20, and 22-23 were also rejected under 103 (a) in view of Hinds. Claims 9, 11, 19 and 24 were rejected

over Liu in view of Hinds, Harris and Krisinski. Claims 9, 11, 19 and 24 were also rejected under 103(a) over Hinds and Krisinski.

The Examiner sent out a supplemental Communication on March 25, 2009 to address inconsistencies of the Examiner's Answer with the non-final rejection of August 22, 2008.

Upon review, the Examiner's Answer dropped the use of the reference "Baileys Industrial Oil and Fat Product" under the rejection of claims 1, 3-8, 10, 12-18, 20 and 22-23. The rejection to claim 24 over Hinds and Liu was dropped. The rejection of claims 9, 11, 19 and 24 under Hinds, Harris and Krisinski was changed to also include the reference Liu. The Examiner asserts that the addition of the Liu reference was to be consistent with rejection from the non-final office action of August 22, 2008. The rejection to claims 9, 11, 19 and 24 that were rejected under 103(a) to Hinds, Harris and Krisinski was changed to only be over Hinds and Krisinski.

In the non-final office action preceding the Examiner's Answer, Liu was used to reject claims 1, 10, 12-18, 20, and 22-24. The Examiner's Answer uses Liu to reject claims 1, 9-20 and 22-24. Claims 9, 11 and 19 were not previously rejected under Liu in the non-final office action. 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 USC 103 does not constitute a new ground of rejection). Claims 9, 11 and 19 were not previously rejected under Liu in the non-final office action.

In the previous petition decision, the examiner was required to send a corrected Examiner's Answer that identifies the rejection as a new ground of rejection and includes the approval of the TC Director or designee. The Examiner sent out a Supplemental Examiner's Answer on July 23, 2009 that did not indicate that the Technology Center Director or designee approved the Supplemental Examiner's Answer and also failed to identify any time period or alternative for response as required by the previous petition decision

DECISION

The petition is **GRANTED**.

The Examiner is directed to clarify the record and to assure that the procedures set forth in MPEP 1207 and the prior Decision on Petition has been followed. The Examiner is required to send a corrected Examiner's Answer that identifies the rejection as a new ground of rejection and includes the approval of the TC Director or designee. The appellant may then file either a request that prosecution be reopened by filing a reply under 37 CFR 1.111, or a request that the appeal be maintained by filing a reply brief or resubmitting the previously-filed reply brief, within two months from the mailing of the corrected answer

/Jacqueline M. Stone/

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

Duane C. Basch
BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD NY 14526



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LOWRIE LANDO & ANASTASI
RIVERFRONT OFFICE
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE, MA 02142

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OCT 20 2005

OFFICE OF PETITIONS

In re Application of :
William T. Clark :
Application No. 10/705,672 : DECISION GRANTING PETITION
Filed: November 10, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. M0506-703330 :

This is a decision on the petition, filed October 19, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 19, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This matter is being referred to Technology Center AU 2831 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.


Frances Hicks
Petitions Examiner
Office of Petitions

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



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RIVERFRONT OFFICE
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE, MA 02142

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JUL 10 2006
OFFICE OF PETITIONS

In re Application of :
William T. Clark :
Application No. 10/705,672 : DECISION GRANTING PETITION
Filed: November 10, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. M0506-703330 :

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

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) 272-3218.

This matter is being referred to Technology Center AU 2831 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\july9\705672.wpd

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/2/06

Paper No.:

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/205627 Patent No.: 7119692B2

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.

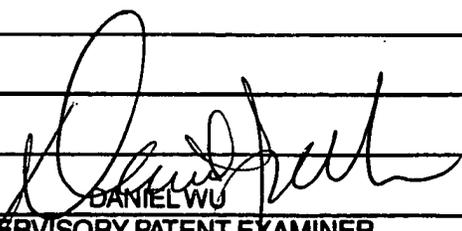
Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____



DANIEL WU
SUPERVISORY PATENT EXAMINER

SPE

2612
Art Unit



**HOGAN & HARTSON
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES CA 90071-2611**

COPY MAILED

APR 12 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yasuhiro Suzuki :
Application No. 10/705,684 :
Filed: November 10, 2003 :
Attorney Docket No. 89277.0009 :

This is a decision on the petition, filed April 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 9, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 3612 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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



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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : April 12, 2005
TO : Director, Office of Patent Publication
FROM : Office of the Deputy Commissioner
for Patent Examination Policy
SUBJECT : Withdrawal from Issue of

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APR 12 2005

OFFICE OF PETITIONS

Applicant(s) : Yasuhito Suzuki
Application No. : 10/705,684
Filed : November 10, 2003

The above-identified application has been assigned Patent No. 6,880,876 and an issue date of April 19, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of April 19, 2005:

"All reference to Patent No. 6,880,876 to Yasuhito Suzuki of Japan for WINDSCREEN DEVICE FOR MOTORCYCLE appearing in the Official Gazette of April 19, 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



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Paper No.

FOLEY & LARDNER
2029 CENTURY PARK EAST
SUITE 3500
LOS ANGELES, CA 90067

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OCT 25 2004

In re Application of: :
Bowman et al. :
Application No. 10/705,686 : DECISION DISMISSING
Filed: November 10, 2003 : PETITION UNDER
Title of Invention: : 37 CFR 1.47(a)
SUBCUTANEOUS INFUSION SET :

OFFICE OF PETITIONS

This is in response to the Petition in Support of filing on Behalf of Omitted Inventor Under 35 U.S.C. 116 and 37 C.F.R. 1.47, filed September 10, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). The petition is properly treated as a petition under 37 CFR 1.47(a).

The petition is **granted**.

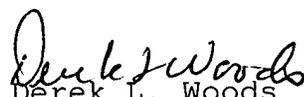
The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Albert Condioty, refuses to join in the application.

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

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

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


Derek L. Woods
Attorney Advisor
Office of Petitions



INTERNATIONAL SPECIALTY PRODUCTS
Attn: William J. Davis, Esq.
Legal Department, Building No. 10
1361 Alps Road
Wayne, NJ 07470

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MAR 28 2008

OFFICE OF PETITIONS

In re Application of :
Jenn S. Shih, et. al. :
Application No. 10/705,691 : **ON PETITION**
Filed: November 10, 2003 :
Attorney Docket No. FDN-2737 :

This is a decision on the petition under 37 CFR 1.137(b), filed on March 29, 2007, 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 November 6, 2006. A Notice of Abandonment was mailed on March 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of \$1,400 for payment of the issue fee and \$300 for payment of the publication fee; (2) the petition fee of \$1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of \$30 for ten (10) advance order soft copies filed on March 29, 2007.

This application file is being referred to the Office of Data Management for further processing 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



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**TRANSPACIFIC LAW GROUP
617 NORTH DELAWARE STREET
SAN MATEO CA 94401**

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APR 18 2007

In re Application of

**CHENG, Ji-Yen et al.
Application No. 10/705,698
Filed: November 08, 2003
Attorney Docket No. N0120/PP/HH**

OFFICE OF PETITIONS

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 22, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **VENABLE LLP
RAYMOND J. HO
575 7TH STREET NW
WASHINGTON, DC 20004-1601**



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United States Patent and Trademark Office
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NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant : John W. Devaull : DECISION ON REQUEST FOR
Patent Number : 7654897 : RECALCULATION of PATENT
Issue Date : 02/02/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/705,699 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/10/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1352** 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.:20091105

DATE : November 5, 2009

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction on Patent No.: 10/705740 (7462687)

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: /Cecilia Tsang/

Art Unit 1654



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ISTERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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SEP 03 2004

In re Application of
Willen, Estornell, Kirk, Miller, and Walsh
Application No.: 10/705,758
Filed: November 12, 2003
Attorney Docket No: 1481.010006
For: System. Method, and Computer Program Product for
Forecasting Weather-Based Demand Using Proxy Data

: OFFICE OF PETITIONS
:
: DECISION ACCORDING
: RULE 47(a) STATUS
:

This is in response to the petition under 37 CFR 1.47(a), filed June 23, 2004.

The petition is **GRANTED**.

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

The above-cited application was filed on November 12, 2003, and was not accompanied by a proper oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on February 4, 2004, requiring a properly executed declaration, \$65.00 surcharge, and payment of the filing fee. The notice allowed an extendable period for reply of two months from its mailing date. On June 23, 2003, the instant petition was filed along with a request for an extension of time within the third-month, a declaration executed by four of the five named inventors, and the filing fee.

Petitioner has shown that inventor Kirk has constructively refused to join the filing of the above-identified application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

William Kirk
21 Chestnut Ridge Circle
Easton, PA 18042

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SEP 03 2004

OFFICE OF PETITIONS

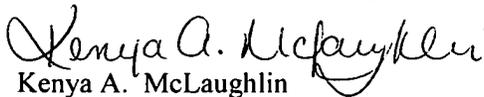
In re Application of :
Willen, Estornell, Kirk, Miller, and Walsh :
Application No. 10/705,758 :
Filed: November 12, 2003 :
Attorney Docket No. 1481.010006 :
For: System, Method, and Computer Program :
Product for Forecasting Weather-Based Demand :
Using Proxy Data :

Dear Mr. Kirk:

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

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. It should be further noted that any assignee of record of the entire interest in the application may request that the inventor(s) be excluded from access to the application. If the request is granted, you will be informed of that fact and will only be permitted to inspect the application on sufficient showing of why such inspection is necessary to conserve your rights. See *MPEP* 106, citing, *In re The Kellogg Switchboard & Supply Company*, 1906 C.D. 274 (Comm'r Pat. 1906).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

In re Application of Willen, Estornell, Kirk, Miller, and Walsh
10/705,758

Page 2

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005



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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

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MAR 12 2007

OFFICE OF PETITIONS

In re Application of :
Roundtree, et al. :
Application No. 10/705,768 : **ON PETITION**
Filed: November 10, 2003 :
Attorney Docket No. 109927-135181 :

This is a decision on the petition under 37 CFR 1.182, filed September 27, 2006, to change the order of inventors in the above-cited application.

The petition is **granted**.

The order of the inventors for the above-cited application is now:

Brian C. Roundtree
Matt Clark
Shane Meyer
Chris Romanzin

A corrected filing receipt is enclosed.

The fee for the instant petition is \$400.00. Deposit account 50-0393 will be charged an additional \$270.00 for the instant petition fee.

The application file is being directed to Technology Center 2100, GAU 2167 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

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
10/705,768	11/10/2003	2167	1388	109927-135181	15	1

CONFIRMATION NO. 4373

25943
SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

CORRECTED FILING RECEIPT



OC00000022751072

Date Mailed: 03/05/2007

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)

Brian C. Roundtree, Kirkland, WA;
Matt Clark, Carnation, WA;
Shane Meyer, Redmond, WA;
Chris Romanzin, Seattle, WA;

Power of Attorney: The patent practitioners associated with Customer Number **000025943**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/425,165 11/08/2002
and claims benefit of 60/424,832 11/08/2002
and claims benefit of 60/424,905 11/08/2002
and claims benefit of 60/424,906 11/08/2002
and claims benefit of 60/424,910 11/08/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/06/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/705,768

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Feature-based solutions provisioning of data services

Preliminary Class

707

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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



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WASHINGTON, DC 20007

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NOV 26 2004

OFFICE OF PETITIONS

In re Application of :
Sylvain Cruchon-Dupeyrat, :
Michael Nelson, Robert : DECISION GRANTING PETITION
Elghanian, Joseph Fragala, Igor : UNDER 37 CFR 1.47(a)
Touzov and Debyjoti Banerjee :
Application No. 10/705,776 :
Filed: November 12, 2003 :
Title: METHODS AND APPARATUS FOR
INK DELIVERY TO NANOLITHOGRAPHIC
PROBE SYSTEMS

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 29, 2004.

The petition is granted.

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

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

The file is being forwarded to Technology Center 2800 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)373-3228.

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

10/705,776



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NOV 26 2004

OFFICE OF PETITIONS

In re Application of :
Sylvain Cruchon-Dupeyrat, :
Michael Nelson, Robert : DECISION GRANTING PETITION
Elghanian, Joseph Fragala, Igor : UNDER 37 CFR 1.47(a)
Touzov and Debyjoti Banerjee :
Application No. 10/705,776
Filed: November 12, 2003
Title: METHODS AND APPARATUS FOR
INK DELIVERY TO NANOLITHOGRAPHIC
PROBE SYSTEMS

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 29, 2004.

The petition is granted.

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

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

The file is being forwarded to Technology Center 2800 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)373-3228.

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



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DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

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OFFICE OF PETITIONS

In re Application of :
MIZUTANI, et al. :
Application No. 10/705,778 : DECISION GRANTING PETITION
Filed: November 10, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 20050/0200475USO :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 3, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

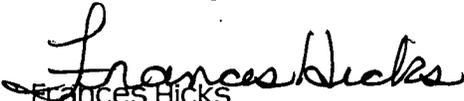
The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 16, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This application is being referred to Technology Center AU 3761 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.


FRANCES HICKS
Petitions Examiner
Office of Petitions

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



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

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MAR 01 2005

OFFICE OF PETITIONS

In re Application of :
Elizabeth Tai, et al. :
Application No. 10/705,795 :
Filed: November 6, 2003 :
Attorney Docket No. 2001P12800US01 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 15, 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 May 28, 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 at midnight on August 30, 2004.

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

The application matter is being referred to Technology Center 1700, Art Unit 1774 for further processing.

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



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www.uspto.gov

Kris T. Fredrick
Patent Services
Honeywell International Inc.
101 Columbia Road
Morristown, NJ 07962

Mail Date: 04/21/2010

Applicant	: Pamela A. Binns	: DECISION ON REQUEST FOR
Patent Number	: 7590063	: RECALCULATION OF PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/705,802	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1697** 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 : 2/03/09

TO SPE OF : ART UNIT 3992

SUBJECT : Request for Certificate of Correction for Appl. No.: 10705824 Patent No.: 7198973 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The Patent should read as indicated by the examiner.

**/Matthew Smith/
Supervisory Patent Examiner
Art Unit 2823**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/03/09

TO SPE OF : ART UNIT 3992

SUBJECT : Request for Certificate of Correction for Appl. No.: 10705824 Patent No.: 7198973 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

- | | |
|---|--|
| <input checked="" type="checkbox"/> Approved | All changes apply. |
| <input type="checkbox"/> Approved in Part | Specify below which changes do not apply. |
| <input type="checkbox"/> Denied | State the reasons for denial below. |

Comments: The Patent should read as indicated by the examiner.

**/Matthew Smith/
Supervisory Patent Examiner
Art Unit 2823**



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

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FEB 09 2009

OFFICE OF PETITIONS

In re Application of :
Koyama et al. : DECISION ON APPLICATION
Application No. 10/705,827 : FOR
Filed: November 13, 2003 : PATENT TERM ADJUSTMENT
Atty. Dkt. No. 12732-176001 :

This is a decision on the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed on October 2, 2008. Applicants request that the initial determination of patent term adjustment be corrected from zero (0) days to two hundred seven (207) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is TWO HUNDRED SEVEN (207) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 3, 2008, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was 0 days. The period of adjustment was 192 days of PTO delay and 408 days of applicant delay.

On October 2, 2008, the issue fee was paid. The subject application for term patent adjustment was filed concurrently with the issue fee, and was therefore timely filed.

Applicants state that their response filed on July 24, 2006 in reply to the office action mailed on March 23, 2006, was not entered, and that a reduction of 31 days of patent term adjustment should be assessed. Pursuant to 37 CFR 1.704(b), applicants are correct.

Applicants assert entitlement to patent term adjustment for the mailing of the final office action on March 8, 2007, four (4) months and 104 days after the filing of the reply filed on July 24, 2006. Pursuant to 37 CFR 1.703(a)(2), applicants are correct.

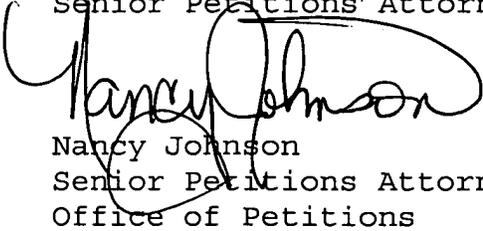
Applicants aver that the reduction of 350 days of patent term adjustment for the filing of a request for continued examination on June 8, 2007 in response to the final office action mailed on March 23, 2006, is in error. Upon review, applicants are correct, as the request for continued examination filed on June 8, 2007, was filed within three (3) months of the mailing of a final office action mailed on March 8, 2007. Therefore, the 350 day reduction in patent term adjustment will be removed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is TWO HUNDRED SEVEN (207) days (207 (139+53+104) days of PTO delay, reduced by 89 (28+31+30) days of Applicant delay).

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

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries regarding this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl: Revised PAIR Calculation

Day : Thursday

PALM INTRANET

Date: 2/5/2009

Time: 16:14:39

PTA Calculations for Application: 10/705827

Application Filing Date:	11/13/2003	PTO Delay (PTO):	192
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	408
Post-Issue Petitions:	0	Total PTA (days):	207
PTO Delay Adjustment:	423		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
85	02/05/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		31	
84	02/05/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	104		
83	02/05/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	350		
76	07/03/2008	MAIL NOTICE OF ALLOWANCE			
75	07/02/2008	ISSUE REVISION COMPLETED			
74	07/02/2008	DOCUMENT VERIFICATION			
73	07/02/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
72	07/01/2008	NOTICE OF ALLOWABILITY			
68	04/28/2008	NEW OR ADDITIONAL DRAWING FILED			
67	05/30/2008	DATE FORWARDED TO EXAMINER			
66	04/28/2008	RESPONSE AFTER EX PARTE QUAYLE ACTION			
65	02/27/2008	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)			
64	02/26/2008	EX PARTE QUAYLE ACTION			
61	02/14/2008	CASE DOCKETED TO EXAMINER IN GAU			
60	01/04/2008	DATE FORWARDED TO EXAMINER			
59	12/14/2007	RESPONSE AFTER NON-FINAL ACTION		30	55
58	12/14/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
55	08/14/2007	MAIL NON-FINAL REJECTION			
54	07/31/2007	NON-FINAL REJECTION			
53	03/29/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	03/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	07/31/2007	DATE FORWARDED TO EXAMINER			
50	06/08/2007	REQUEST FOR CONTINUED EXAMINATION		350	28

		(RCE)			
49	07/31/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
48	07/31/2007	MAIL SUPPLEMENTAL FINAL REJECTION			
41	03/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	09/29/2005	NEW OR ADDITIONAL DRAWING FILED			
39	06/08/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
38.7	03/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	03/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	03/15/2007	SUPPLEMENTAL FINAL REJECTION			
36	03/08/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
35	03/05/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
34	07/24/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	07/24/2006	REFERENCE CAPTURE ON IDS			
31	07/24/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
30.7	07/24/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
30	07/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	03/23/2006	MAIL FINAL REJECTION (PTOL - 326)	53		21
27	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
26	03/20/2006	FINAL REJECTION			
25	03/20/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	09/29/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23.7	09/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	21
23	09/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	01/20/2006	DATE FORWARDED TO EXAMINER			
21	09/29/2005	RESPONSE AFTER NON-FINAL ACTION		28	18
20	09/29/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	09/29/2005	REFERENCE CAPTURE ON IDS			

18	06/01/2005	MAIL NON-FINAL REJECTION	139		-1
17	05/31/2005	NON-FINAL REJECTION			
16	05/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	03/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	10/03/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	10/03/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	11/13/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
11	11/13/2003	REFERENCE CAPTURE ON IDS			
10.7	11/13/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	11/13/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	02/11/2004	APPLICATION IS NOW COMPLETE			
8	02/10/2004	APPLICATION RETURN FROM OIPE			
7	02/10/2004	APPLICATION RETURN TO OIPE			
6	02/10/2004	APPLICATION DISPATCHED FROM OIPE			
5	02/10/2004	APPLICATION IS NOW COMPLETE			
4	02/02/2004	CLEARED BY OIPE CSR			
3	02/02/2004	CASE CLASSIFIED BY OIPE			
2	12/22/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/13/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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JUL 21 2004

DCM

In re Application of	:	
Eaddy, et al.	:	
Serial Number: 10/705,829	:	PETITION UNDER
Filed: November 13, 2003	:	M.P.E.P. 708.02 IV
For: INTELLIGENT LABEL FOR INFORMING	:	
CONSUMER OF PRODUCT QUALITY CRITERIA	:	

This is in response to the petition filed 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

Richard C. Litman
 LITMAN LAW OFFICES, LTD.
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MCLEAN, VA 22102

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AUG 09 2004

OFFICE OF PETITIONS

In re Application of	:	
Lee et al.	:	
Application No. 10/705,836	:	DECISION ON PETITION
Filed: November 13, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 6192.0056.C1	:	

This is a decision on the petition filed July 8, 2004, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 121 for the benefit of prior-filed nonprovisional application 09/206,317.

The petition is **DISMISSED AS MOOT** for the reasons stated below.

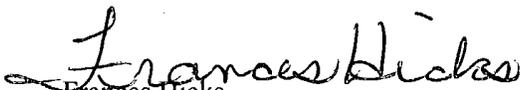
A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

The current procedure where a claim for priority under 37 CFR §§ 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3).¹ In the instant case, the Office noted the claim for priority of the above-identified application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

In view of the dismissal of the instant petition as moot, the \$1330.00 fee submitted is unnecessary. Accordingly, this fee will be refunded to Deposit Account No. 23-1951 in due course.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (703) 306-0482.

This matter is being referred to Technology Center Art Unit 2858 for examination in due course.


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

¹ Note MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.



JGIR.: 07-06

Paper No: __

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TAICHUNG HSIEN TW TAIWAN

COPY MAILED

JUL 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Huang	:	DECISION
Application No.: 10/705,839	:	
Filing Date: 13 November, 2003	:	
Attorney Docket No. (None)	:	

This is a decision on the series of petitions filed on 27 and 28 September, and 14 December, 2005, and thereafter again on 15 and 21 February and 24 March and 27 June, 2006, to withdraw the holding of abandonment and is considered under 37 C.F.R. §1.181; and, alternatively, for relief under 37 C.F.R. §1.137(b).

NOTES:

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Moreover, Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

Petitioner might find it helpful to review the requirements as to such relief set forth at MPEP §711.03(c)—in particular that for submission of a true copy of the date-stamped receipt card.

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(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply to the Notice of Allowance/Allowability and Fees Due mailed on 3 February, 2005, with reply, due under a non-extendable deadline on or before 3 May, 2006;
- the application went abandoned by operation of law after midnight 3 May, 2005;
- the Office mailed the Notice of Abandonment on 18 August, 2005;
- on series of petitions filed on 27 and 28 September, and 14 December, 2005, and thereafter again on 15 and 21 February and 24 March and 27 June, 2006, Petitioner filed a series of petitions with averments of timely filing (but did not provide a copy of the date-stamped receipt card (see: MPEP §503¹)) and submitted copies of papers averred to

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

have been timely filed, including timely payment of the fees due, however, the Office records indicate receipt of no such payment, and Petitioner, in the alternative filed a petition with fee for relief under 37 C.F.R. §1.137(b), submitted a reply in the form of fees due, and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and
- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.²

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

² See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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).³

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.⁴

Delays in responding properly raise the question whether delays are unavoidable.⁵ Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).⁶ And the Petitioner must be diligent in attending to the matter.⁷ Failure to do so does not

or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

- (1) Holding certain facts to have been established;
- (2) Returning papers;
- (3) Precluding a party from filing a paper, or presenting or contesting an issue;
- (4) Imposing a monetary sanction;
- (5) Requiring a terminal disclaimer for the period of the delay; or
- (6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

³ 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

⁴ Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

⁵ See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

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*.

constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.⁸))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.⁹

Further, the commentary at MPEP §711.03(c) also 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.

⁸ Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one’s attention and the mail is not timely deposited for shipment.

⁹ See: Delgar v. Schulver, 172 USPQ 513 (D.D.C. 1971).

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

And the regulation (37 C.F.R. §1.181¹⁰) requires that relief be sought within two (2) months of

¹⁰ The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Director.

◇

(a) Petition may be taken to the Director:

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

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

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

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

the act complained of.

Petitioner appears to no have satisfied the “showing” and “timing” requirements described above.

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

It appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, and the petition as considered under 37 C.F.R. §1.181 is **dismissed**; the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Publications Branch to be processed into a patent 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

(e) Oral hearing will not be granted except when considered necessary by the Director.

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

(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.
[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]



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MAY 28 2004

OFFICE OF PETITIONS

In re Application of
Hiromi Ikeda et al.
Application No. 10/705,859
Filed: November 13, 2003
Attorney Docket No. 00862.023317

:
:
: DECISION DISMISSING
: PETITION
:

This is a decision on the petition filed April 16, 2004, requesting that the above-identified application be accorded a filing date of October 21, 2003 with Figure 14 described in the specification as a part of the original disclosure.

The application was filed November 13, 2003 but on March 31, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the application had been accorded a filing date of November 13, 2003 but that Figure 14 described in the specification (description and claims) appeared to have been omitted from the application.

In response, on April 16, 2004, the present petition was filed. Petitioner argues that Figure 14 was included on page 14/15 and was not missing on November 13, 2003. In support, a copy of petitioner's postcard receipt was supplied with the present petition. Petitioner requests that the application be accorded a filing date of November 13, 2003 with Figure 14 as a part of the original disclosure.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503).

Unfortunately, in this case, petitioners' postcard itemizes the number of drawings sheets to be 15 and while a review of the record discloses that 15 sheets of drawings

BEST AVAILABLE COPY

were in fact filed on November 13, 2004, the drawings sheets include two (2) copies of Figures 10 (sheet 10/15), which could be an error made on the part of the applicant. The U.S. Patent and Trademark Office (Office) 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. The showing of record is that the Figure 14 was missing upon application and that petitioner's have not shown that the sheet 14/15 was in fact filed with the other application papers on November 13, 2003.

As petitioners have not provided any convincing evidence that Figure 14 was filed in the USPTO on November 13, 2003, the petition must be **DISMISSED**.

Petitioner may file Figure 14 as a preliminary amendment.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, the petition fee will not be refunded.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 13, 2003, using the application papers filed on that date.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed

September 26, 2007

Patent No. : 7,239,337
Inventor : Mitsuhiro OGIHARA et al.
Patent Issued : July 3, 2007
Title : COMBINED SEMICONDUCTOR APPARATUS WITH THIN SEMICONDUCTOR FILMS

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322(a).

Accordingly, the inventors address as printed was considered in accordance with the Declaration or Oath and in accordance with the present style for printing. In assigned patents, the city and U.S. state, or city and foreign country (residence) is printed.

In view of the foregoing, applicants request in this matter is hereby denied.

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

Cecelia B. Newman
Cecelia B. Newman
Decisions & Certificates
of Correction Branch

(703) 308-9390 OR (703) 308-*9380 ext. 123*

Rabin & Berdo, PC
1101 14th Street NW
Suite 500
Washington DC 20005

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

VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

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FEB 22 2007

OFFICE OF PETITIONS

In re Application of :
Jurgen Angele :
Application No. 10/705,900 :
Filed: November 13, 2003 :
Attorney Docket No. 37934-191592 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.314, filed February 20, 2007, to defer issuance of the patent.

The petition is **GRANTED**.

Issuance will be deferred for a period of one month from the date of this decision. At the end of this period, the application will be referred to Publishing Division to be processed into a patent.

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances. See MPEP 1306.01.

A review of the record discloses that a petition under 37 CFR 1.48(a) was filed on January 11, 2007, but was not approved by the Examiner in a communication mailed January 31, 2007. Petitioner is advised that any further action to correct the inventorship under 37 CFR 1.48(a) or petition under 37 CFR 1.47(a) filed in this application would now be subject to the provisions of 37 CFR 1.312. As such, a petition to withdraw from issue under 37 CFR 1.313(c) would be required for consideration of a petition under 37 CFR 1.48(a) or 1.47(a). If the petition is under 37 CFR 1.313(c)(2), the petition must be accompanied by a request for continued examination under 37 CFR 1.114, the required fee therefor, and the submission as required by 37 CFR 1.114. The filing of a petition under 37 CFR 1.48(a) or 37 CFR 1.47(a) would satisfy the submission requirement of 37 CFR 1.114.

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 should be directed to the undersigned at (571) 272-3204.

A handwritten signature in cursive script, appearing to read "Sherry D. Brinkley". The signature is written in black ink and is positioned above the printed name and title.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions



VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

COPY MAILED

MAR 20 2007

In re Application of :
Jurgen Angele :
Application No. 10/705,900 :
Filed: November 13, 2003 :
Attorney Docket No. 37934-191592 :

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition, filed March 19, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 11, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 2165 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

MAILED

APR 23 2009

In re Patent No. 6,973,160 :
Issue Date: 12/06/2005 :
Application No. 10/705,910 : OFFICE OF PETITIONS
Filed: 11/13/2003 :
Attorney Docket No. 03560.003399 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 (no fee), filed January 26, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

Petitioner states that the original Letters Patent was never received.

The required showing to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication (in this case, the original Letters Patent) was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Letters Patent was not received. A copy of the docket record where the nonreceived Letters Patent would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP § 711.03(c) and 1156 Official Gazette 53 (November 16, 1993).

The petition is accompanied by the evidence required to establish nonreceipt of the original Letters patent. Accordingly, the Office of Data Management is directed to issue a duplicate Letters Patent.

A copy of this decision is being faxed to Office of Data Management for issuance of a duplicate Letters Patent.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

cc: Niomi Farmer, South Tower, 8th Floor (Fax No. (571) 270-9753)



COPY MAILED

JAN 29 2007

OFFICE OF PETITIONS

**MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006**

In re Application of	:	
Soon Sung Yoo et al	:	
Application No. 10/705,913	:	ON PETITION
Filed: November 13, 2003	:	
Attorney Docket No. 8733.935.00-US	:	

This is a decision on the petition filed January 22, 2007, requesting withdrawal of the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED** as moot.

Unfortunately, the petition did not reach the appropriate official for decision within sufficient time to avert issuance of the application into a patent. Petitioner's attention is directed to 37 CFR 1.313(d), which states:

A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information.

The information disclosure statement (IDS) has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(l).

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

Karen Creasy
 Karen Creasy
 Petitions Examiner
 Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/27/08

Paper No.:

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/705920 Patent No: 7251358 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:

Approved, no effect on scope.

Brian P. Werner/SPE 2624

2624

SPE

Art Unit

IPW

NEIFELD IP LAW, P.C.
2001 Jefferson Davis Highway
Suite 1001
Arlington, VA 22202



Tel: 703-415-0012
Fax: 703-415-0013
Email: rneifeld@Neifeld.com
Web: www.Neifeld.com

TRANSMITTAL LETTER AND AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

ASSISTANT COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 22313

RE: Attorney Docket No.: X2YA0041U-US
Application Serial No.: 10/705,962
Filed: 11/13/03
Title: Component Carrier
Inventor: Anthony A. ANTHONY et al.

SIR:

Attached hereto for filing are the following papers:

1. Decision on Petition Under 37 CFR 1.183 Seeking Waiver of Requirements Under 37 CFR 1.98 and 1.52 (Filed in Application Serial No: 10/237,079, Neifeld Docket No: X2YA0010U-US; 5 Pages)

Our check in the amount of \$0.00 is attached covering the required fees.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-2106. A duplicate copy of this sheet is enclosed.

31518
PATENT TRADEMARK OFFICE

8/17/04
Date


Richard A. Neifeld, Ph.D.
Registration No. 35,299
Attorney of Record

Printed: August 16, 2004 (5:15pm)
Y:\Clients\X2YA\X2YA0041\X2YA0041UUS\Drafts\Trans Ltr_040816.wpd

87304 RB



UNITED STATES PATENT AND TRADEMARK OFFICE

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



NEIFELD IP LAW, PC
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

Attorney Review of Decision: 8-2004
COPY MAILED

AUG 10 2004

OFFICE OF PETITIONS

In re Application of
Anthony, A. et al. ✓
Application No. 10/237,079 ✓
Filed: September 9, 2002 ✓
For: UNIVERSIAL ENERGY CONDITIONING ✓
INTERPOSER WITH CIRCUIT
ARCHITECTURE
Attorney Docket No. X2YA0010U/US ✓

DECISION ON PETITION
UNDER 37 CFR 1.183
SEEKING WAIVER OF
REQUIREMENTS UNDER
37 CFR 1.98 and 1.52

This is a response to a petition under 37 CFR 1.183 filed on April 22, 2004, concurrently with an Information Disclosure Statement (IDS). The § 1.183 petition requests waiver of the rules for Information Disclosure Statements under 37 CFR 1.98. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing a paper copy of each reference in each of 26 related applications where the references are being cited by Petitioner. The request for waiver is made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.183 petition also contains a request seeking permission to submit the same prior art submissions on compact disc which would require a waiver of 37 CFR 1.52(a) and (e).

The petition under 37 CFR 1.183 requesting relief to file a reduced number of paper copies of IDS references and to file them on compact disc is **GRANTED IN PART** to the extent set forth below.

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 26 U.S. applications relating to different aspects of an invention.

DecPet - X2YA0010U/US - 040813 RB

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information material to patentability, which includes information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.183 - Special Treatment of Compact Disc

The petition states that the compact disc filed with the IDS is an additional copy of the paper references included with the IDS. It is not apparent from the petition why the Office needs to make available to every examiner in all 26 applications a second copy of each reference on compact disc. Accepting a second copy on compact disc of each reference places an additional burden on the Office. First, there is the burden to determine if the paper copy and the compact disc copy of the references are the same. If the two copies are not the same it raises questions about what the examiner considered in each application. Second, accepting the compact disc copy places a burden on the Office to maintain a copy as part of the Official record of the application. Finally, there is insufficient information in the petition evaluate the data formats and software requirements to determine how compatible the filing is with the Office's automated systems and procedures for maintaining records. Hence it is not clear why relief is required under § 1.183 if relief from filing a paper copy in each application is granted. Nor is it apparent on balance why the Office should accept the additional burden of having to process a second copy of the references on compact disc. In view of the relief granted below, no further discussion of the compact discs is required in this decision.

Petition under § 1.183 for a waiver of the rules for compact discs is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-121 and 600-122.

Paper copies: Petitioner notes that the instant application is one of about 24 bulk filing applications that have been filed in regard to a particular technology. Accordingly, Petitioner requests that one individual paper copy of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application.

Rather than be required to submit, via a paper copy, two cartons of foreign patent and non-patent literature references in each of 24 applications, Petitioner seeks to have:

(1) The concurrently filed single paper copy of each IDS citation fulfill the requirement for a paper copy in all 24 applications;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of the references to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from requiring a separately filed paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, and a copy of the Form 1449 (or equivalent).

Once past the initial IDS submission, the petition does not propose the waiver to apply to updates and no waiver is granted for updates of the IDS.

A review of Office records indicates that 23 applications are either Image File Wrapper (IFW) applications or will soon be IFW applications. The one application that is not an IFW application will become an IFW application upon filing an RCE which appears to be required for consideration of the IDS. The Office has provided an image copy of all of the IDS references from the holding application to the other 23 bulk IFW applications.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of foreign patent and non-patent literature references in 24 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available in different applications from one paper copy, on balance, there is seen to be sufficient benefit to justify waiver in this instance for all the applications filed.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each foreign patent and non-patent literature IDS citation in a bulk filing application will be waived in the bulk filing applications provided that the following 7 conditions are complied with:

- 1) One paper copy of each foreign patent and non-patent literature IDS citation has been submitted to the Office in the concurrently filed IDS in this, the holding application;
- 2) The information cited in each of the bulk filing applications is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), if submitted in the holding application, must also be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) There will be no waiver of any aspects of 37 CFR 1.97 in any application after allowance or final rejection of that application.

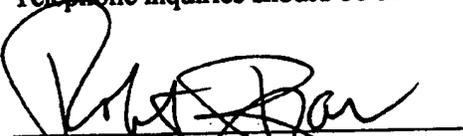
Part IV. Further Correspondence

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

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

By FAX: (703) 872-9306
 Attn: Office Patent Legal Administration/Michael L. Lewis

Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.



Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Petitioner's list of Applications

NEIFELD DOCKET NO: X2YA0010U/US

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATIONS OF: Anthony

Examiner: JACKSON, S.

APPLICATION NO: 10/237,079

GAU: 2836

RECEIVED

Filed: 9/9/2002

APR 22 2004

Title: Universal Energy Conditioning Interposer with Circuit Architecture
and relating to the following 24 applications:

OPLA

National AppNo	Neif Docket Ref	Status	Title
09/647,648	X2YA0105UPCT-US	Allowed	Component Carrier
10/479,506	X2YA0025UPCT-US	pending	Arrangement for Energy
10/766,000	X2YA0013U-US	pending	Shielded Energy Conditioner
09/996,355	X2YA0125U-US	Pending	Energy pathway arrangement
10/023,467	X2YA0126U-US	Pending	Energy pathway arrangements
10/115,159	X2YA0021U-US	Pending	Offset pathway arrangements
10/189,338	X2YA0022U-US	Pending	Pathway arrangement
10/189,339	X2YA0023U-US	Pending	Arrangement for energy
10/237,079	X2YA0010U/US	Pending	Universal energy conditioning
10/328,942	X2YA0108U-US-C1	Pending	Paired Multi-Layered Dielectric
10/344,749	X2YA0119UPCT-US	Pending	An Electrode Arrangement for
10/399,590	X2YA0015UPCT-US	Pending	Amalgam of shielding and
10/399,630	X2YA0014UPCT-US	Pending	Energy Pathway Arrangements
10/432,840	X2YA0016UPCT-US	Pending	Energy Pathway Arrangements
10/433,482	X2YA0017UPCT-US	Pending	Energy Pathway Arrangements
10/435,199	X2YA0020U-US	Pending	Energy Conditioning Structure
10/443,764	X2YA0026U-US-C1	Pending	Paired Multi-Layered Dielectric
10/443,778	X2YA0029U-US-C2	Pending	Energy Conditioning Circuit
10/443,788	X2YA0028U-US-C2	Pending	Component Carrier
10/443,792	X2YA0027U-US-C1	Pending	Multi-Functional Energy
10/460,361	X2YA0032UUSC1	Pending	Predetermined symmetrically
10/705,962	X2YA0041U-US	Pending	COMPONENT CARRIER
09/632,048	X2YA0117U-US	Allowed	Universal Energy Conditioning
10/369,335	X2YA0100U-US-C4	Allowed	Polymer Fuse & Filter

TO: ASSISTANT COMMISSIONER FOR PATENTS

ALEXANDRIA, VA 22313

37 CFR 1.183 PETITION TO WAIVE PORTION OF THE IDS RULES

FILE A REDUCED SET OF REFERENCES



UNITED STATES 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

EITAN, PEARL, LATZER & COHEN ZEDEK LLP
10 ROCKEFELLER PLAZA, SUITE 1001
NEW YORK NY 10020

In re Application of :
Arkady Glukhovsky :
Serial No.: 10/705,982 : DECISION ON PETITION
Filed: November 13, 2003 :
For: System and Method for Controlling in :
Vivo Camera Capture and Display Rate :

This is in response to the petition applicant filed on February 26, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

John E. Kittle
Director
Technology Center 3700/2900



E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

COPY MAILED

MAY 17 2007

OFFICE OF PETITIONS

In re Application of
Kuppsuamy Kanakarajan et al.
Application No. 10/706,000
Filed: November 12, 2003
Attorney Docket Number: HP0087USNA

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 25, 2007, 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 9, 2006. 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 10, 2006. Accordingly, a Notice of Abandonment was mailed December 20, 2006.

Petitioner files the instant petition under 37 CFR 1.137(b).¹

While a terminal disclaimer was filed with this petition, petitioner is advised that since this application was filed after June 8, 1995, there is no requirement for a terminal disclaimer. The terminal disclaimer filed April 25, 2007 will not be entered and the fee in the amount of \$130.00 paid for the terminal disclaimer will be refunded to deposit account 04-1928.

This matter is being referred to Technology Center 1775 for appropriate action on the amendment filed April 25, 2007.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

¹Effective 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 require additional information where there is a question whether the delay was unintentional; and

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



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

COPY MAILED

JUN 04 2007

OFFICE OF PETITIONS

In re Application of :
Michael D. Potter :
Application No. 10/706,016 : DECISION GRANTING PETITION
Filed: November 12, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2420/123 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 31, 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 May 7, 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 regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2834 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

Office of Petitions: Decision Count Sheet

Mailing Month 11

Office of Petitions Internal Document (version: 4.26.6)

Application No.

10706016



For US serial numbers: enter number only, no slashes or commas. Ex: 10123456

For PCT: enter "51+single digit of year of filing+last 5 numbers", Ex. for PCT/US05/12345, enter 51512345

Deciding Official:

WISE, APRIL

Count (1) - Palm Credit

10/706,016

Decision Type: 505 - 37 CFR 1.313(a), (c)(1) & (c)(2) - W/D FROM ISSUE AFTER PAYMENT OF

Decision: DISMISSED

Time Period for Reply: n/a

Notes:

Count (2)

Decision Type: NONE

Decision: n/a

Time Period for Reply: n/a

Notes:

Count (3)

Decision Type: NONE

Decision: n/a

Time Period for Reply: n/a

Notes:

____ Initials of Approving Official (if required)

if more than 3 decisions, attach 2nd count sheet & mark this box



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

In re Application of :
Michael D. Potter :
Application No. 10/706,016 : DECISION DISMISSING PETITION
Filed: November 12, 2003 : UNDER 37 CFR 1.313(a)
Attorney Docket No. 2420/123 :

This is a decision on the petition under 37 CFR 1.313 (c) which is being treated as a petition under 37 CFR 1.313(a), filed October 31, 2007, requesting withdrawal of the above-identified application from issue.

The petition is **DISMISSED** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on August 9, 2007, with the issue fee being due on or before November 9, 2007. There is no indication that the issue fee in this case has been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

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

The matter is being referred to Technology Center AU 2834 for appropriate processing of the RCE filed October 31, 2007, and for consideration of the concurrently filed information disclosure statement.


Frances M. Hicks
Petitions Examiner
Office of Petitions



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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

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SEP 27 2007

OFFICE OF PETITIONS

In re Application of
Wilton W. Webster, Jr., et al.
Application No. 10/706,024
Filed: November 12, 2003
Attorney Docket No. 51216/AW/W112

:
:
:
:
:
:

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 13, 2006. A Notice of Abandonment was mailed on May 21, 2007. In response, on June 4, 2007, the present petition was filed.

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).

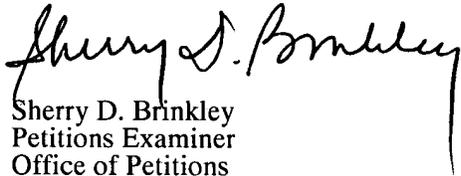
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 and fee of \$790; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay¹.

It is noted that petitioner submitted an extension of time with the present petition. Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the \$900 extension fee submitted with the present petition is being credited to counsel's deposit account.

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. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

This application is being referred to Technology Center AU 3729 for processing of the RCE in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : September 28, 2007

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/706,027 Patent No.: 7241803 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**

LAMONTIE 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.

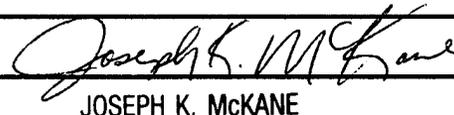
Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments: _____



JOSEPH K. MCKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

1626

SPE

Art Unit



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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant : Erol Bozak : DECISION ON REQUEST FOR
Patent Number : 7631069 : RECALCULATION of PATENT
Issue Date : 12/08/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/706,066 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/12/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1429** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT, PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OCT 04 2004

OFFICE OF PETITIONS

In re Application of :
Shigeru Kawahara et al :
Application No. 10/706,083 : DECISION GRANTING PETITION
Filed: November 13, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 245259US0DIV :

This is a decision on the petition, filed October 4, 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 August 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 1621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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



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Paper No.

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1621 BARBER LANE
MS: D-106
MILPITAS CA 95035

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JUN 11 2008

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey Scott Brown et al.	:	
Application No. 10/706,110	:	
Filed: November 12, 2003	:	DECISION ON PETITION
Attorney Docket No. 03-0847	:	PURSUANT TO
Title: METAL PROGRAMMABLE	:	37 C.F.R. § 1.137(B)
SELF-TIMED MEMORIES	:	

This is a decision on the petition filed February 20, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed November 6, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees¹. Accordingly, the above-identified application became abandoned on February 7, 2008. A Notice of Abandonment was mailed on March 7, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R.

¹ See MPEP § 710.02(e).

- § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
 - (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has included the petition, issue, and publication fees, along with the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met.

The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at <http://www.uspto.gov/web/forms/sb0122.pdf>.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay². In the event that such an inquiry

² See 37 C.F.R. § 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, Petitioner must notify the Office.

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225³. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Theodore D. Fay III
P.O. Box 802333
Dallas, TX 75380

³ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.



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OFFICE OF PETITIONS

In re Application of
Brinkhues

Application No. 10/706,122

Filed: November 12, 2003

For: PHARMACEUTICAL SYRINGE PISTON AND METHOD AND DEVICE THEREFOR

Pub. No.: US 2004/0099994 A1

Pub. Date: May 27, 2004

This is a decision mailed on the request for corrected patent application publication under 37 CFR 1.221(b), filed on July 26, 2004 for the above-identified application.

The request is **DISMISSED**.

The instant request is that the application be republished because the front page of the patent application publication includes error in the foreign priority information as the filing date is listed as "May 11, 2002," not "May 11, 2001".

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 instant request does not identify a material mistake in the publication made by the Office. The filing date of the priority application was listed incorrectly on the patent application publication because applicant provided the incorrect date in the Declaration filed on November 11, 2003.

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The request for a corrected filing receipt filed on May 20, 2004, to change the filing date of the priority application is not in compliance with 37 CFR 1.55.

In order to make a late benefit claim to the earlier filed applications, applicant must submit a petition to accept an unintentionally delayed claim under 35 U.S.C. 119 and 120 for the benefit of the earlier filed applications. The petition must include 1) the surcharge (\$1370) set forth in 37 CFR 1.14(t) and 2) a statement that the entire delay between the date the claim was due under paragraph (a)(5) of this section and the date the claim was filed was unintentional.

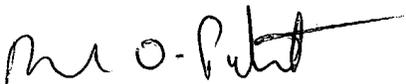
Applicant's request for a corrected patent application publication on July 26, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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(b), 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

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.


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



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CHRISTOPHER P MAIORANA, PC
LSI Corporation
24840 HARPER
SUITE 100
ST CLAIR SHORES, MI 48080

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of :
Maurizio Spadari :
Application No. 10/706,127 : ON PETITION
Filed: November 12, 2003 :
Attorney Docket No. 03-1868 1496.00348 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before February 8, 2008. On February 20, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on March 6, 2008.

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 \$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



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**WILLIAM J. CROSSETTA, JR.
CROSSETTA & ASSOCIATES
905 CONVENTION TOWERS
43 COURT STREET
BUFFALO, NY 14202**

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MAR 02 2007

OFFICE OF PETITIONS

In re Application of :
Peck, Gary Ames :
Application No. 10/706,136 : **ON PETITION**
Filed: November 12, 2003 :
Attorney Docket No. CA-282 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 3700 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

cc:

WILLIAM J. CROSSETTA, JR.
4135 DAVID COURT
WILLIAMSVILLE, NY 14221



ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO FL 32802-3791

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OFFICE OF PETITIONS

In re Application of :
Phillips, et al. :
Application No. 10/706,142 :
Filed: November 12, 2003 :
Attorney Docket No. 78384 (18-32 US DIV1) :
For: METHODS FOR FORMING SECURITY :
ARTICLES HAVING DIFFRACTIVE SURFACES :
AND COLOR SHIFTING BACKGROUNDS :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed January 31, 2005, to change the order of inventorship.

Regarding fees, President Bush signed the Consolidated Appropriations Act on December 8, 2004. This Act changed many patent fees. The 37 CFR 1.182 petition fee became \$400.00. Pursuant to petitioners' authorization, deposit account no. 50-1465 will be charged \$400.00.

The petition is GRANTED.

The order of inventors will be:

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

A replacement filing receipt is enclosed.

After the mailing of this decision, the application file will be forwarded to Technology Center A.U. 1732 for examination in due course.

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



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: replacement filing receipt


UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/706,148	11/12/2003	1712	435	TRIA:002D1		11	1

CONFIRMATION NO. 6075
CORRECTED FILING RECEIPT


OC000000017284726

Robert M. O'Keefe
 O'KEEFE, EGAN & PETERMAN
 Building C, Suite 200
 1101 Capital of Texas Highway South
 Austin, TX 78746

Date Mailed: 10/20/2005

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)

John Werner Bulluck, Spicewood, TX;
 Brad A. Rix, Spicewood, TX;

Assignment For Published Patent Application

Texas Research International, Inc.

Power of Attorney:

Robert O'Keefe--35630
 Richard Egan--36788
 Brian Peterman--37908
 William Enders--41735
 Maximilian Peterson--46469

Domestic Priority data as claimed by applicant

This application is a CON of 09/881,587 06/14/2001 PAT 6,734,249
 which claims benefit of 60/211,856 06/14/2000

Foreign Applications

If Required, Foreign Filing License Granted: 02/06/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/706,148**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

Room temperature cured high temperature and load dimensionally stable acrylate adhesives

Preliminary Class

524

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).



LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD
SUITE 100
PALO ALTO, CA 94303

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JAN 08 2007

OFFICE OF PETITIONS

In re Application of
Michael R. Rothrock
Application No. 10/706,151
Filed: March 30, 2000
Attorney Docket No. PORTP004C1

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 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 David A. Levine on behalf of all attorneys of record who are associated with customer No. 40518.

All attorneys/agents associated with the Customer Number 40518 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 August 18 2005 does not include the proper chain of title or the correct 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: MICHAEL R. ROTHROCK
30 RIESLING WAY
SCOTTS VALLEY, CA 95066

cc: WILLIAM SHAFFER, ESQ.
TOWNSEND & TOWNSEND & CREW, LLP
279 LYTTON AVENUE
PALO ALTO, CA 94301



MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE CA 95110

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AUG 14 2006

In re Application of : OFFICE OF PETITIONS
Norman, et al. : DECISION ON PETITION
Application No. 10/706,167 :
Filed: November 12, 2003 :
Docket No.: SIRF.P025.US.C2 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 2006, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned May 1, 2006 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed January 30, 2006. The Notice set a three month statutory period for reply. Notice of Abandonment was mailed June 9, 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 Office of Patent Publication for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions



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OCT 21 2009

OFFICE OF PETITIONS

CENTURY IP GROUP, INC.
P.O. BOX 7333
NEWPORT BEACH CA 92658-7333

In re Application of	:	
Amit Shachak	:	
Application No. 10/706,173	:	DECISION ON PETITION
Filed: November 12, 2003	:	TO WITHDRAW
Attorney Docket No. 1005-04-01 USP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 3, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioners were not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

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

cc: IXI MOBILE (R&D), LTD
PO BOX 2543
17 HA 'TIDHAR ST
RA'ANANA, 43665 ISRAEL



BORG WARNER INC.
PATENT DEPARTMENT
POWERTRAIN TECHNICAL CENTER
3850 HAMLIN ROAD
AUBURN HILLS, MI 48326-2872

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SEP 06 2006

OFFICE OF PETITIONS

In re application of :
Georg Scholz et al. :
Application No. 10/706,180 :
Filed: November 12, 2003 :
Attorney Docket Number: DKT02151 :

ON PETITION

This is a decision on the petition, filed May 12, 2006, under 37 CFR 3.81(b)¹ to correct the assignee's name and the assignee's attorney information on the front of the Patent.

The petition under 37 CFR 3.81(b) is **DISMISSED**.

Petitioner states that the correct assignee's name is BorgWarner Inc. and that the incorrect assignee's name as well as information regarding the assignee's attorney 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 upon issuance, the correct assignee and assignee attorney information be indicated on the front page of the Letters Patent.

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**. 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.

It is noted that when a request to issue a patent to an assignee is filed after payment of the issue fee, a certificate of correction must be submitted as there is no time to process these requests before a patent is issued. See 69 Fed. Reg. 29865 (May 26, 2004).

¹ See Official Gazette of June 22, 2004

The petition however, is not accompanied by a certificate of correction form or the fee as required by 37 CFR §§ 1.323 and 3.81(b) and thus is not grantable. Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision.

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
 Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.



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

AKERMAN SENTERFITT
P.O. BOX 231
ORLANDO, FL 32802-0231

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of :
Benoit Glazer :
Application No. 10/706,186 :
Filed: November 12, 2003 :
Attorney Docket No. 34728 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on October 22, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice of Non-Compliant Amendment (37 CFR 1.321) mailed November 29, 2006. A Notice of Abandonment was mailed on August 28, 2007.

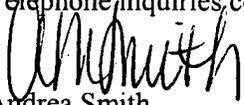
As authorized, the petition fee of \$770 has been charged to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment and ten (10) sheets of replacement drawings containing Figures 1-10; (2) the petition fee of \$770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

This application file is being referred to Technology Center Art Unit 3644, for review of the amendment filed with the instant petition.

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


Andrea Smith
Petitions Examiner
Office of Petitions

cc: Jon M. Gibbs
Akerman Senterfitt
420 South Orange Avenue, Ste. 1200
Orlando, FL 32801



UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO FL 32802-3791

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FEB 10 2005
OFFICE OF PETITIONS

In re Application of :
Philips et al. : DECISION ON PETITION
Application No. 10/706,211 :
Filed: November 12, 2003 :
Attorney Docket No. 48930-01701 :

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

The petition is **granted**.

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

1. Roger W. Phillips
2. Richard L. Bonkowski
3. Patrick K. Higgins
4. Charles T. Markantes

The Office records have been corrected to reflect the change of the order of inventorship as indicated above. A corrected filing receipt accompanies this decision. The current fee for a petition under 37 CFR 1.182 is \$400.00. Accordingly, the \$400.00 petition fee will be charged to Deposit Account No. 50-1465, as authorized.

This matter is being referred to Technology Center Art Unit 1772.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE PATENT APPLICATION OF: Bonkowski et al. Our File: 78385 (18-32 US DIV2)

Serial No: 10/706,211

Group: 1772

Filed: November 12, 2003

Examiner: Unassigned

**Title: SECURITY ARTICLES HAVING DIFFRACTIVE SURFACES AND COLOR
SHIFTING BACKGROUNDS**

Confirmation No. 6324

VIA FACSIMILE NO. 703-872-9306

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

Petition for Change of Order of Inventorship under 37 CFR 1.182

Sir:

In view of the divisional application papers filed November 12, 2003 under serial No. 10/706,211, it has been found that this nonprovisional continuation application, as filed, through error and without deceptive intent, improperly set forth the order of the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.182.

The correct order of the inventorship of this application should be as follows:

**Roger W. Phillips, 466 Jacqueline Drive, Santa Rosa, California, 95405, USA
Richard L. Bonkowski, 3568 Southridge Drive, Santa Rosa, California, 95403, USA
Patrick K. Higgins, 9971 Troon Court, Windsor, California, 95492, USA
Charles T. Markantes, 155 Stony Point Road, #21, Santa Rosa, California, 95401, USA**

02/10/2005 CKHLOK 00000005 501465 10706211

01 FC:1462 400.00 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

**STOEL RIVES LLP
ONE UTAH CENTER
SUITE 1100
201 SOUTH MAIN STREET
SALT LAKE CITY, UT 84111**

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JUL 08 2004

OFFICE OF PETITIONS

In re Application of
Graham et al.
Application No. 10/706,240
Filed: November 12, 2003
Attorney Docket No. 60492/4.2

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed April 19, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 11, 2003, one day prior to the filing of the above-identified application. 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 October 14, 2004 accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 3725 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-0482.



Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patrea L. Pabst
Pabst Patent Group LLP
400 Colony Square, Suite 1200
1201 Peachtree Street
Atlanta, GA 30361

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APR 23 2008

OFFICE OF PETITIONS

In re Application of :
Solomon S. Steiner et al. :
Application No. 10/706,243 :
Filed: November 12, 2003 :
Attorney Docket No. PDT 103 CON(3) :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 7, 2007.

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

A review of the file record indicates that the power of attorney to Pabst Patent Group LLP has been revoked by the assignee of the patent application on January 17, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Kirkpatrick & Lockhart**
Preston Gates Ellis LLP
1900 Main Street, Suite 600
Irvine, CA 92614-7319

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080326

DATE : April 9, 2008

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 - 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: Jill A. Warden

Art Unit 1797



UNITED STATES PATENT AND TRADEMARK OFFICE

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

PARKHURST & WENDEL, L.L.P.
1421 PRINCE STREET
SUITE 210
ALEXANDRIA, VA 22314-2805

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MAR 02 2005

OFFICE OF PETITIONS

In re Application of :
Yukio Hashimoto, et al. :
Application No. 10/706,280 :
Filed: November 13, 2003 :
Attorney Docket No. MEIC:154 :

ON PETITION

This is a decision on the petition, filed March 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

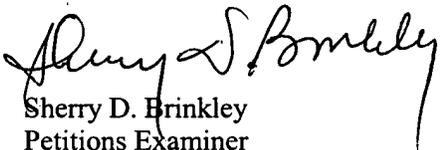
The petition is **GRANTED**.

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 January 13, 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 2819 for further processing of the request for continued examination under 37 CFR 1.114.


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

¹The 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).



JEFFREY FURR
253 N. MAIN STREET
JOHNSTOWN OH 43031

COPY MAILED

JUN 21 2006

OFFICE OF PETITIONS

In re Application of :
Carlos Gabriel Bianchim : DECISION ON PETITION TO
Application No. 10/706,281 : WITHDRAW HOLDING OF
Filed: 13 November, 2003 : ABANDONMENT
Attny Docket No. 023853-00030 :

This is a decision on the petition filed on 12 May, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 29 April, 2005. Notice of Abandonment was mailed on 1 September, 2005.

Petitioner asserts that the Notice mailed on 29 April, 2005, was not received because it was mailed to the wrong address due to USPTO error. Specifically, petitioner 6 July, 2004, was not received. Specifically, petitioner asserts that a Power of Attorney and Change of Correspondence Address filed on 18 April, 2005, designated Customer Number 29569 as the correspondence address, but that, due to Office error, the Customer Number entered by the USPTO was No. 29560, and that the Office action was incorrectly mailed to that address.

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 official file reveals that on 18 April, 2005, a Power of Attorney and Correspondence Address Indication Form was received which designated Customer No. 29569 as the correspondence address. However, the Office communication mailed on 29 April, 2005, as well as the Notice of Abandonment mailed on 1 September, 2005, were mailed to the address associated with Customer No. 29560, rather than the address, that associated with Customer No. 29569. As such, the showing of record is that there was an irregularity in the mailing of the Notices mailed on 29 April and 1 September, 2005, in that said Notices was not mailed to the proper address.

The Office apologizes for any inconvenience to petitioner.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As petitioner has filed a response to the Notice mailed on 29 April, 2005, with the present petition, remailing of the Notice is unnecessary. Rather, the response filed with the petition is being treated as timely filed.

The application is being referred to Technology Center Art Unit 2821 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

12-11-03

EXPRESS MAIL CERTIFICATE

Date 12/9/03 Label No. EL 983951173

I hereby certify that, on the date indicated above, this paper or fee was deposited with the U.S. Postal Service & that it was addressed for delivery to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 by "Express Mail Post Office to Addressee" service.

PLEASE CHARGE ANY DEFICIENCY UP TO \$300.00 OR CREDIT ANY EXCESS IN THE FEES DUE WITH THIS DOCUMENT TO OUR DEPOSIT ACCOUNT NO. 04 - 0100

Name (Print) Shantanu D. Suman Signature [Signature]



Customer No. 07278

Docket No. 06727/0200525-US0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Assaf Govari, Yitzhack Schwartz

Serial No.: 10/706,299 Confirmation No.: N/A
 Filed: November 11, 2003 Group Art Unit: N/A
 For: EXTERNALLY APPLIED RF FOR PULMONARY VEIN ISOLATION

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

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

Sir:

This is a request for withdrawal of all attorneys of the firm of Darby &

Darby P.C., Customer No. 07278, including but not limited to:

- | | |
|-------------------------|-----------------|
| Gordon D. Coplein | Reg. No. 19,165 |
| Michael J. Sweedler | Reg. No. 19,937 |
| S. Peter Ludwig | Reg. No. 25,351 |
| Paul Fields | Reg. No. 20,298 |
| Marc S. Gross | Reg. No. 19,614 |
| Joseph B. Lerch | Reg. No. 26,936 |
| Melvin C. Garner | Reg. No. 26,272 |
| Adda C. Gogoris | Reg. No. 29,714 |
| Bert J. Lewen | Reg. No. 19,407 |
| Henry Sternberg | Reg. No. 22,408 |
| Peter C. Schechter | Reg. No. 31,662 |
| Robert Schaffer | Reg. No. 31,194 |
| Robert C. Sullivan, Jr. | Reg. No. 30,499 |

Approved

APPROVED
FREDERICK R. SCHMIDT
DIRECTOR
TECHNOLOGY CENTER 3700

Frederick R. Schmidt

9/14/2005

Joseph R. Robinson
Scott G. Lindvall
Paul F. Fehlner, Ph.D.
David Leason

Reg. No. 33,448
Reg. No. 40,325
Reg. No. 35,135
Reg. No. 36,195

as attorney or agent for the above identified patent application. The reason for this request is that the client has discharged the firm and requested that the file be transferred to another firm, as indicated below.

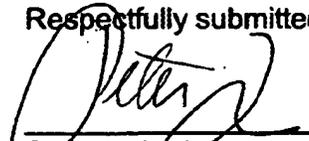
Please direct all further correspondence to:

Mr. Peter Galloway
Ladas & Parry
26 West 61st Street
New York, NY 10023

Contact the undersigned if there are any questions or concerns.

The request is enclosed in triplicate.

Respectfully submitted,



S. Peter Ludwig
Reg. No. 25,351
Attorney for Applicant

DARBY & DARBY, P.C.
805 Third Avenue
New York, NY 10022
212-527-7700



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DW Oct-07

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

COPY MAILED
OCT 25 2007
OFFICE OF PETITIONS

In re Application of :
Ken Rosenblum :
Application Number: 10/706311 : DECISION ON PETITION
Filing Date: 11/12/2003 :
Attorney Docket Number: :
1326.007US1 :

This is a decision on the petition filed on 18 September, 2007, under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 27 January, 2007, for failure to file a proper response to the final Office action mailed on 26 October, 2006, which set a three (3) month shortened statutory period for reply. An amendment after final rejection was filed on 26 January, 2007. However, on 10 July, 2007, a Advisory

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)).

Action Before the Filing of an Appeal Brief was mailed, stating that the reply filed on 26 January, 2007, fails to place this application in condition for allowance. Notice of Abandonment was mailed on 18 July, 2007.

A Request for Continued Examination, requesting that the previously filed submission under 37 CFR 1.116 be considered as the required submission under 37 CFR 1.114.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.² The three (3)-month extension request filed on 18 September, 2007, was submitted more than three (3) months after the end of the period for reply to the Office action mailed on 26 October, 2006, and therefore is unnecessary. The extension of time fee will be refunded.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

This application is referred to Technology Center Art Unit 3653 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

² See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017**

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NOV 03 2009

OFFICE OF PETITIONS

In re Application of :
Bedhome et al. :
Application No. 10/706,315 : **DECISION ON PETITION**
Filed: November 11, 2003 :
Attorney Docket No. 5367-039-999 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Incomplete Reply (Nonprovisional) (Notice) mailed February 2, 2007. 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 application became abandoned on April 3, 2007. A Notice of Abandonment was mailed May 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 Basic filing fee of \$790.00 and Additional Claims fees of \$450.00; (2) the petition fee of \$1,500.00, and (3) a proper statement of unintentional delay.

Further, 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

Joan Olszewski
Petitioner Examiner
Office of Petitions



BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

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DEC 12 2007

In re Application of
Michael Wandell, et al.
Application No. 10/706,321
Filed: November 12, 2003
Attorney Docket No. 006405.00029

OFFICE OF PETITIONS

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 18, 2007.

The request is **NOT APPROVED**.

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

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

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

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

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

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



April M. Wise
Petitions Examiner
Office of Petitions

cc: HOME ACCESS HEALTH CORPORATION
2401 WEST HASSELL ROAD
SUITE 1510
HOFFMAN ESTATES, IL 60169



BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

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DEC 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael Wandell. Et al.	:	
Application No. 10/706,321	:	DECISION ON PETITION
Filed: November 12, 2003	:	TO WITHDRAW
Attorney Docket No. 006405.00029	:	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 14, 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 Allen E. Hoover on behalf of all attorneys of record who are associated with customer No. 22908.

All attorneys/agents associated with the Customer Number 22908 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 is an outstanding Office action mailed December 12, 2007 that requires a reply from the applicant.

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


April M. Wise
Petitions Examiner
Office of Petitions

cc: MICHAEL WANDELL
7236 HOLLY HALL DRIVE
MERCER ISLAND, WA 98040

cc: HOME ACCESS HEALTH CORPORATION
2401 WEST HASSELL ROAD
SUITE 1510
HOFFMAN ESTATES, IL 60169



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
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10/706,321

11/12/2003

Michael Wandell

NOT A BW FILE

NO ACTION

CONFIRMATION NO. 6492

POWER OF ATTORNEY NOTICE

22908

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606



Date Mailed: 12/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/14/2007.

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

/amwise/

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



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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VEDDER PRICE P.C.
222 N. LASALLE STREET
CHICAGO, IL 60601

Mail Date: 04/21/2010

Applicant : Michael Wandell : DECISION ON REQUEST FOR
Patent Number : 7611670 : RECALCULATION of PATENT
Issue Date : 11/03/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/706,321 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/12/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1756** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE



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United States Patent and Trademark Office
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NOV - 2 2003

CHIRON CORPORATION
INTELLECTUAL PROPERTY - R440
P.O. BOX 8097
EMERYVILLE CA 94662-8097

In re Application of :
Jayash Vora et al :
Serial No.: 10/706,328 : PETITION DECISION
Filed: November 12 12, 2003 :
Attorney Docket No.: 072121-0366 :

This is a response to the petitions under 37 CFR 1.59(b), filed January 2, 2004, to expunge information from the above identified application. This application has been assigned for examination, but no action has been taken as of the date of mailing of this decision.

Petitioner requests that a document submitted January 2, 2004, as a Proprietary Information Disclosure Statement be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

This is an unexamined application. As such the information provided has not been reviewed and the petition cannot be granted at this time. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application petition may be made for return of Proprietary Information Disclosure Statements.

The petition is **DISMISSED**. Applicants may resubmit the petition subsequent to allowance or other action which closes prosecution being mailed in the application. No additional petition fee will be required at that time.

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 general Office facsimile number, 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

CP

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UNITED STATES PATENT AND TRADEMARK OFFICE

23638-023 N

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

Paper No. 6

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
and POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

RECEIVED

APR 11 2002

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APR 08 2002

In re Application of:

Roger A. Dulin, Robert A. DeMintz, Levin, BOSTON
Eryan S. O'Mary and Michael Burris :
Application No. 09/843,085 :
Filed: April 27, 2001 :
Title of Invention: METHOD OF :
TRANSPARENTIZING PAPER SUBTRATE AND:
PAPER ASSEMBLY WITH :
TRANSPARENTIZED WINDOW :

MINTZ LEVIN, BOSTON
PATENT BOCKET DEPT.

OFFICE OF PETITIONS

DECISION REFUSING
STATUS
UNDER 37 CFR 1.47(a)

This is in response to a Petition Under 37 C.F.R. 1.47(a), filed January 22, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is granted.

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

Petitioner has shown that the non-signing inventor, Michael Burris, refuses to sign the declaration after being presented with the above-identified application and declaration.

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

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

B. Shreve Miller for
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

	Done By
SEARCHED	_____
SERIALIZED	_____
INDEXED	_____
FILED	_____
SEARCHED	_____
SERIALIZED	_____
INDEXED	_____
FILED	_____
SEARCHED	_____
SERIALIZED	_____
INDEXED	_____
FILED	_____



Michael Burris
512 Park Rid Circle
Marietta, GA 30068

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APR 08 2002

OFFICE OF PETITIONS

In re Application of: :
Roger A. Dulin, Robert A. DeMattia, :
Bryan S. O'Mary and Michael Burris :
Application No. 09/843,085 :
Filed: April 27, 2001 :
Title of Invention: METHOD OF :
TRANSPARENTIZING PAPER SUBTRATE AND: :
PAPER ASSEMBLY WITH : LETTER
TRANSPARENTIZED WINDOW :

Dear Mr. Burris:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Derek L. Woods 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).

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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Commissioner for Patents
United States Patent and Trademark Office
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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

RECEIVED

DEC 22 2008

OFFICE OF PETITIONS

In re Application of :
Roger A. Dulin et al :
Application No. 10/706,343 : DECISION ON PETITION
Filed: November 12, 2003 :
Attorney Docket No. 23638-040 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." See Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed July 10, 2006, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$2,350 extension of time fee submitted with the petition on November 6, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary. Petitioner

may request a refund of the extension fee by writing to the Office of Finance Refund Section. A copy of this decision should accompany the request.

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

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received November 6, 2008.


Karen Creasy
Petitions Examiner
Office of Petitions



E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

COPY MAILED

APR 07 2005

OFFICE OF PETITIONS

In re Application of :
Dimitri P. Zafiroglu :
Application No. 10/706,348 : ON PETITION
Filed: 12 November, 2003 :
Att'y Docket No. RD8120USDIV :

This is a decision on the petition under 1.137(b),¹ filed on 22 December, 2004, to revive the above-identified application.

The petition is **GRANTED**.

¹Effective 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 require additional information where there is a question whether the delay was unintentional; and

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

This application became abandoned on 11 April, 2004, for failure to file a timely response to the Notice to File Corrected Application Papers mailed on 10 February, 2004, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 29 November, 2004.

The petition fee of \$1,500.00 will be assessed to counsel's deposit account, No. 03-2775, as authorized on the Fee Transmittal filed with the present petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.² In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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.

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

²See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

Application No. 10/706,348

3

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: CONNOLLY BOVE LODGE & HUTZ LLP
1007 NORTH ORANGE STREET
P.O. BOX 2207
WILMINGTON DE 19889



1772

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE – 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

COPY MAILED

SEP 03 2004

OFFICE OF PETITIONS

In re Application of	:	
Michael D. Schmal et al	:	
Application No. 10/706,351	:	DECISION ON PETITIONS
Filed: November 12, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MQPP-0043	:	AND UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 20, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed provisional applications set forth in the amendment submitted with the instant petition.

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 November 12, 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 November 12, 2003. Intermediate application number 09/918,042 was filed within twelve months of provisional Application No. 60/274,573, which was filed on March 26, 2001, for which priority is claimed. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title.

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). Also, the reference to the prior-filed applications was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §§ 120 and 365(c) and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

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

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

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

This application is being forwarded to Technology Center Art Unit 1772 for appropriate action on the amendment submitted May 20, 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 applications, and

for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.



Frances Hicks

Petitions Examiner

Office of Petitions

Office of the Deputy Commissioner

for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt



DAVID T. BRACKEN
THE LAW OFFICE OF DAVID T. BRACKEN
4839 BOND AVENUE
ORANGE, CA 92869

COPY MAILED
JAN 21 2009

In re Application of :
Mike Hoftman et al :
Application No. 10/706,353 : DECISION ON PETITION
Filed: November 12, 2003 :
Attorney Docket No. 0310.1A2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 8, 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.

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 lack items (3).

The above-identified application became abandoned for failure to submit the formal drawings in a timely manner in reply to the Notice of Allowance mailed July 28, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 29, 2005.

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

- (1) the delay in reply that originally resulted in the abandonment;
- (2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and
- (3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

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

As to Period (1):

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

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

to reply to avoid abandonment on October 29, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as David Bracken was counsel of record at the time of abandonment, Mr. Bracken should explain why this application became abandoned while it was under his control and what effort he made to further reply of himself and with whom this matter was discussed outside of Mr. Bracken. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Mr. Bracken and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons responsible for handling this application, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman

Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons handling this application and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

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

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

Any renewed petition may be addressed as follows:

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

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

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

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

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

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

A handwritten signature in cursive script, appearing to read "Irvin Dingle".

Irvin Dingle
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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KRAGULJAC & KALNAY
4700 ROCKSIDE ROAD
SUMMIT ONE, SUITE 510
INDEPENDENCE, OH 44131

Mail Date: 04/29/2010

Applicant : Barbara Liskov : DECISION ON REQUEST FOR
Patent Number : 7610387 : RECALCULATION of PATENT
Issue Date : 10/27/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/706,360 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/12/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **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.



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ALEXANDRIA, VA 22313-1450
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MAIL

AUG 16 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DECISION ON PETITION
TO ACCEPT COLOR
DRAWINGS

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In Re Application of
Michael Brauss
Application Serial No. 10/706,385
Filed: November 12, 2003
For: **SYSTEM AND METHOD FOR DISPLAYING
MATERIAL CHARACTERISTIC INFORMATION**

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed April 12, 2004, requesting acceptance of color drawings and color photographs.

The petition requests that the color drawings, noted as figures 7 through 12 be accepted in lieu of black and white drawings.

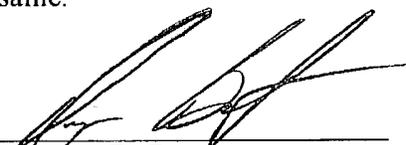
A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), three (3) sets of the color drawings in question, a black and white photocopy of said drawings, and the specification must contain, or be amended to contain, the following language as the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

" The 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."

The petition was filed without 3 (three) complete sets of color drawings of figures 7 through 12 and a black and white photocopy of the drawings. Submitted with the Petition was one set of colored drawings for figures 7-12.

As stated, a grantable petition must be accompanied by three (3) sets of the color drawings and color photographs. Accordingly, the petition is **Denied**.

Petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. Any request for reconsideration should be complete, i.e., include three (3) sets of color drawings, color photographs and a black and white photocopy of the same.


Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications



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FITCH, EVEN, TABIN & FLANNERY
120 South LaSalle Street
Suite 1600
Chicago, Illinois 60603-3406

MAIL

FEB 27 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Michael Brauss :
Serial No.: 10/706,385 :
Filed: November 12, 2003 :
For: **SYSTEM AND METHOD FOR DISPLAYING** :
MATERIAL CHARACTERISTIC :
INFORMATION :

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.183 filed September 27, 2004, which is being treated as a petition under 37 C.F.R. § 1.84(a)(2), requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 7, 8, 9, 10, 11 and 12, be accepted in lieu of black and white drawings.

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

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

The application file is being forwarded to the Group technical support staff for entry of the proposed amendment filed with this petition. From there, the application file will be forwarded to Drafting Division, Drawing Review Branch for review of the drawing figures in light of this decision.

The petition is GRANTED.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

COPY MAILED

JUL 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Randall Eckert, et al.	:	
Application No. 10/706,391	:	DECISION ON PETITION
Filed: November 12, 2003	:	TO WITHDRAW
Attorney Docket No. 061818-5512US2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 2, 2007

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morgan, Lewis & Bockius, LLP (SF) has been revoked by the assignee of the patent application on February 28, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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


 April M. Wise
 Petitions Examiner
 Office of Petitions

cc: MICHAEL WISE, ESQ.
PERKINS COIE LLP
1620 26TH STREET
6TH FLOOR SOUTH TOWER
LOS ANGELES, CA 90404



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/706,391	11/12/2003	Randal Eckert	061818-5512US02

CONFIRMATION NO. 5819

43850
 MORGAN, LEWIS & BOCKIUS LLP (SF)
 2 PALO ALTO SQUARE
 3000 El Camino Real, Suite 700
 PALO ALTO, CA 94306



OC000000024735853

Date Mailed: 07/10/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/28/2007.

- 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).

April M. Euse

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

FORMER ATTORNEY/AGENT COPY



Paper No.

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

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JUN 29 2009

OFFICE OF PETITIONS

In re Application of :
Eckert et al. :
Application No. 10/706,391 : ON APPLICATION FOR
Filed: November 12, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 02307K-186431US :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b) filed January 26, 2009. Applicants request that they be granted a minimum patent term adjustment of 412 days (not 0 days as indicated on the initial determination of patent term adjustment) with an additional term to be added if the patent issues after Tuesday, May 26, 2009. Relying on Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), applicants request this correction on the basis that the Office will take in excess of three years to issue this patent (and considering the filing of a Request for Continued Examination on February 22, 2008¹).

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, 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

¹ Applicants request that the Office enter a period of adjustment of 467 days for the Office taking in excess of three years to issue the patent. Given the Office delay of 362 days and the applicant delay of record of 417 days at the time of the mailing of the notice of allowance, an increase of 467 days would net a revised patent term adjustment of 412 days.

failure to issue the patent within 3 years. See § 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 3 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 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 February 22, 2008.

The determination of the patent term adjustment at the time of the mailing of the notice of allowance remains zero (0) days.

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

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) (as well as, 1.702(b)) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

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

A handwritten signature in black ink that reads "Nancy Johnson". The signature is written in a cursive style with a large initial "N" and "J".

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090817

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.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments:

/Mehrdad Dastouri/
Supervisory Patent Examiner.Art Unit 2621



J. Nevin Shaffer, Jr.
Suite 43
913 Gulf Breeze Parkway
Gulf Breeze, FL 32561

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JAN 04 2007

OFFICE OF PETITIONS

In re Application of Wolfe et al. :
Application No. 10/706,410 : Decision on Petition
Filing Date: November 12, 2003 :
Atty. Docket No. Triple Crown 102-1189 :

This is a decision on the petition under 37 CFR 1.181, filed October 16, 2006, to withdraw the holding of abandonment.

The petition is **granted**.

Facts:

A final Office action was mailed July 5, 2005.

The final Office action set a shortened statutory period for reply of three (3) months.

A reply was filed September 6, 2005.

An Advisory Action was mailed September 25, 2005.

A Notice of Abandonment was mailed April 6, 2006.

Petitioner contends a RCE and request for a one-month extension of time were filed October 18, 2005.

Discussion:

Petitioner has supplied a copy of the RCE and request for a one-month extension of time. The papers bear a proper certificate of transmission in compliance with the requirements of 37 C.F.R. 1.8(a). The petition complies with the requirements set forth in 37 CFR 1.8(b). In view thereof the RCE and request for extension of time are considered timely filed.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The RCE fee of \$395 and the extension of time fee of \$60 have been charged to petitioner's deposit account.

Technology Center Art Unit 3644 will be informed of the instant decision. Thereafter, the Technology Center will enter the RCE 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.

A handwritten signature in black ink, appearing to read 'C. Brantley', is written over the printed name 'Steven Brantley' in the text above.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



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Alan R. Thiele
JENKENS & GILCHRIST, P.C.
Suite 3200
1445 Ross Avenue
Dallas TX 75202-2799

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AUG 01 2005

OFFICE OF PETITIONS

In re Application of :
Peter M. Lovie :
Application No. 10/706,414 :
Filed: November 12, 2003 :
Attorney Docket No. :
62197-00002USPT :

This is a decision in response to the Petition under 37 CFR 1.137(b), filed July 5, 2005, to revive the above-identified application.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (hereinafter "Notice"), mailed February 12, 2004, which set a two (2) month period for reply. No response having been received, the application became abandoned on April 13, 2003. A Notice of Abandonment was mailed on November 29, 2004.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). A reply to the February 12, 2004 Notice is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to the Office of Initial Patent Examination for continued processing in due course.

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


Derek L. Woods
Petitions Attorney
Office of Petitions



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ARRIS INTERNATIONAL, INC
3871 LAKEFIELD DRIVE
SUWANEE, GA 30024

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FEB 04 2005

OFFICE OF PETITIONS

In re Application of :
Carter et al. :
Application No. 10/706,421 :
Filed: November 12, 2003 :
Attorney Docket Number: 8130 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2004, to revive the above-identified application.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), mailed February 11, 2004. The Notice required, an executed oath/declaration, and a late filing fee or oath or declaration surcharge. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on April 12, 2004.

With the instant Renewed Petition, Petitioner has filed the appropriate fees and an executed oath or declaration in response to the Notice, and satisfied the requirements of a grantable petition under 37 CFR 1.137(b).

The oath or declaration has been entered and made of record.

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

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


Derek L. Woods
Attorney/Advisor
Office of Petitions



RANDALL J. KNUTH, P.C.
3510-A Stelhorn Road
Fort Wayne, IN 46815-4631

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APR 28 2005

OFFICE OF PETITIONS

In re Application of :
Ohmi, et al. :
Filed: November 10, 2003 : ON PETITION
Application No. 10/706,423 :
Dkt. No.: FUK-140 :

This decision is in response to the "PETITION UNDER 37 C.F.R. § 1.53(e) IN REPLY TO NOTICE TO FILE CORRECTED APPLICATION PAPERS: FILING DATE GRANTED," filed November 18, 2004, requesting that the instant application be accorded a filing date of November 10, 2003 because the drawing alleged to have been omitted from the application as filed was incorporated by reference.

The application was filed November 10, 2003. On September 14, 2004, the Initial Patent Examination Division mailed a Notice to File Corrected Application Papers ("Notice") stating, *inter alia*, that the application had been accorded a filing date of November 10, 2003, but that Figure 89 described in the specification appeared to have been omitted.

The Notice permits applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

The instant petition and a copy of the missing figure were filed in response to the Notice. The petition states, in effect, that the above-identified application incorporated by reference prior filed application 10/100,533, filed March 18, 2002, which is a divisional of 09/355,229, filed July 26, 1999.

An applicant may incorporate by reference a foreign application by including, in the application-as-filed, a statement that such foreign application(s) is incorporated by reference. The inclusion of this

incorporation by reference of the foreign application(s) will permit an applicant to amend the application to include any subject matter in such prior application(s), without the need for a petition. See, MPEP 608.01(p).

Accordingly, the petition is **DISMISSED**.

In view of the incorporation by reference of prior filed application 10/100,533 which is a divisional of 09/355,229, Figure 89 is not new matter if said figure was part of the disclosure of prior filed application 10/100,533, which is a divisional of 09/355,229. However, the figure submitted with the instant petition has not been entered into the record.

To avoid further delay in the examination of the application, a preliminary amendment amending the application to include the missing figure should be submitted prior to the issuance of the first office action on the merits.

Receipt is hereby acknowledged of the required petition fee.

Petitioners are advised that the instant response to the Notice with respect to the omitted figure is in fact untimely as the time period set forth in the Notice as regards the omitted figure explicitly advised that the time period for response was not extendible pursuant to 37 CFR 1.136. Thus, the instant petition has been considered on the merits at the discretion of the Office. In future, petitioners should adhere to the time limits for response set for in Office communications being especially mindful that a Notice from the Initial Patent Examination Division which addresses separate and distinct issues may in fact set forth more than one period of time for response.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 10, 2003.

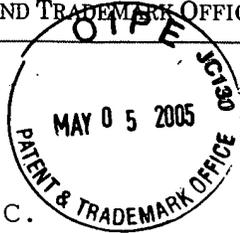
Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the examiner of any amendment that may be filed requesting the entry of a drawing sheet.

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


Alesia M. Brown
Petitions Attorney
Office of Petitions



LRJ



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APR 28 2005

OFFICE OF PETITIONS

In re Application of :
Ohmi, et al. :
Filed: November 10, 2003 : ON PETITION
Application No. 10/706,423 :
Dkt. No.: FUK-140 :

This decision is in response to the "PETITION UNDER 37 C.F.R. § 1.53(e) IN REPLY TO NOTICE TO FILE CORRECTED APPLICATION PAPERS: FILING DATE GRANTED," filed November 18, 2004, requesting that the instant application be accorded a filing date of November 10, 2003 because the drawing alleged to have been omitted from the application as filed was incorporated by reference.

The application was filed November 10, 2003. On September 14, 2004, the Initial Patent Examination Division mailed a Notice to File Corrected Application Papers ("Notice") stating, *inter alia*, that the application had been accorded a filing date of November 10, 2003, but that Figure 89 described in the specification appeared to have been omitted.

The Notice permits applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

The instant petition and a copy of the missing figure were filed in response to the Notice. The petition states, in effect, that the above-identified application incorporated by reference prior filed application 10/100,533, filed March 18, 2002, which is a divisional of 09/355,229, filed July 26, 1999.

An applicant may incorporate by reference a foreign application by including, in the application-as-filed, a statement that such foreign application(s) is incorporated by reference. The inclusion of this

incorporation by reference of the foreign application(s) will permit an applicant to amend the application to include any subject matter in such prior application(s), without the need for a petition. See, MPEP 608.01(p).

Accordingly, the petition is **DISMISSED**.

In view of the incorporation by reference of prior filed application 10/100,533 which is a divisional of 09/355,229, Figure 89 is not new matter if said figure was part of the disclosure of prior filed application 10/100,533, which is a divisional of 09/355,229. However, the figure submitted with the instant petition has not been entered into the record.

To avoid further delay in the examination of the application, a preliminary amendment amending the application to include the missing figure should be submitted prior to the issuance of the first office action on the merits.

Receipt is hereby acknowledged of the required petition fee.

Petitioners are advised that the instant response to the Notice with respect to the omitted figure is in fact untimely as the time period set forth in the Notice as regards the omitted figure explicitly advised that the time period for response was not extendible pursuant to 37 CFR 1.136. Thus, the instant petition has been considered on the merits at the discretion of the Office. In future, petitioners should adhere to the time limits for response set for in Office communications being especially mindful that a Notice from the Initial Patent Examination Division which addresses separate and distinct issues may in fact set forth more than one period of time for response.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 10, 2003.

Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the examiner of any amendment that may be filed requesting the entry of a drawing sheet.

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


Alesia M. Brown
Petitions Attorney
Office of Petitions



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9330 ZIONSVILLE RD
INDIANAPOLIS, IN 46268

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MAR 28 2007

OFFICE OF PETITIONS

In re Application of :
Richard H. French-Constant, et al. :
Application No. 10/706,424 :
Filed: November 12, 2003 :
Attorney Docket No. 62,878A :

ON PETITION

This is a decision in response to the petition, filed September 28, 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 an Office action mailed January 12, 2006. A Notice of Abandonment was mailed on August 23, 2006. In response, on September 28, 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) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 1638 for consideration of the amendment filed September 28, 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



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**ATTN: MCMR-JA (MS. ELIZABETH ARWINE-PATTENT ATTY)
U.S. ARMY MEDICAL RESEARCH AND MATERIAL COMMAND
504 SCOTT STREET
FORT DETRICK, MD 21702-5012**

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OFFICE OF PETITIONS

In re Application of :
Lanar et al. :
Application No. 10/706,435 : **DECISION ON PETITION**
Filed: November 12, 2003 :
Attorney Docket No. 003/285/SAP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 1, 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 1636 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions



**INTERNATIONAL PAPER COMPANY
6285 TRI-RIDGE BOULEVARD
LOVELAND OH 45140**

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SEP 06 2005

In re Application of :
Holbert et al. :
Application No. 10/706,437 :
Filed: November 12, 2003 :
Attorney Docket No. 8LB-023587-US :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 19, 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 February 8, 2005. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on May 9, 2005.

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

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 \$1590.00 extension of time fee submitted with the petition on August 19, 2005, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is being forwarded to Technology Center 1700

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


Liana Chase
Petitions Examiner
Office of Petitions



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B. CRAIG KILLOUGH
P. O. DRAWER H
CHARLESTON SC 29402

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FEB 17 2009

In re Application of :
R. Delegge : **OFFICE OF PETITIONS**
Application No. 10/706,453 :
Filed: November 12, 2003 : **DECISION ON PETITION**
For: 1978.004-US :

This is a decision on the petition, filed January 13, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

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

This application was held abandoned for failure to timely pay the issue and publication fees on or before December 8, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed September 8, 2008. A Notice of Abandonment was mailed on January 7, 2009.

Petitioner asserts that the Notice of Allowance dated September 8, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and
3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and

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

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

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



Charlema Grant
Petitions Attorney
Office of Petitions



B. CRAIG KILLOUGH
P. O. DRAWER H
CHARLESTON SC 29402

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JUN 08 2009

In re Application of	:	
Delegge	:	OFFICE OF PETITIONS
Application No. 10/706,453	:	DECISION ON PETITION
Filed: November 12, 2003	:	
Attorney Docket No. 1978.004-US	:	

This is a decision on the renewed petition, filed April 15, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Allowance and Fees Due mailed September 8, 2008, which set a three (3) month statutory period for-reply. A Notice of Abandonment was mailed on January 7, 2009.

Petitioner asserts that the Notice of Allowance and Fees Due dated September 8, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and
3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office

action. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

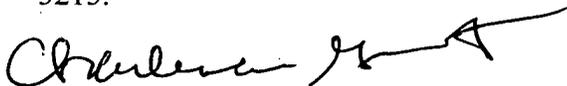
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

This petition is being granted based upon practitioner's statement that a paper or any other form of a master docket does not exist and the other evidence provided.

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

This application is being referred to the Technology Center technical support staff of Art Unit 3763 for remailing the Notice of Allowance and Notice of Allowability of September 8, 2008 and resetting the period for reply.

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



Charlema Grant
Petitions Attorney
Office of Petitions



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BANK OF AMERICA PLAZA
101 SOUTH TRYON ST
SUITE 4000
CHARLOTTE NC 28280-4000

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OFFICE OF PETITIONS

In re Application of :
Burford, et al. :
Application No. 10/706,480 : DECISION DISMISSING PETITION
Filed: April 7, 2004 :
Attorney Docket No. 038190/268379 :

This is a decision on the "Petition to Grant Filing Date and to Refund Petition Fee", filed April 7, 2004.

Application papers in the above-identified application were deposited on October 27, 2003. However, on March 29, 2004, the Initial Patent Examination Division mailed applicant a "Notice of Incomplete Nonprovisional Application." Applicants were notified that the application papers had not been accorded a filing date because the application was deposited without a specification. This Notice set a two month period for reply.

In response, on April 7, 2004, Applicants filed the present petition to accord a filing date of October 27, 2003. Applicants asserted that a complete application, including a specification, was filed on October 27, 2003. As proof thereof, applicants have submitted: (1) a copy of the original application transmittal letter, bearing Express Mail Label No. EV 331608718 US, and itemizing the items allegedly filed with the application, including 25 pages of specification; (2) a copy of the Express

Mail label bearing Express Mail Label No. EV 331608718 US and a date-in of October 27, 2003; and (3) a copy of a postcard receipt, itemizing the application, but lacking a USPTO date stamp dated October 27, 2003.¹

The PTO file is the official record of papers originally filed in this application. A review of the official file reveals that a specification was not filed on October 27, 2003, since those papers are not present in the file. An applicant alleging that a paper was filed in the PTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See MPEP 503. **Applicants have not submitted a proper return postcard showing that the application was filed on October 27, 2003.**

Furthermore, petitioner may not rely upon Express Mail under 37 CFR 1.10(e) to establish that the specification was filed with the instant application. MPEP 513 states, in pertinent part:

37 CFR 1.10(e) applies only in those situations in which the correspondence at issue was lost *in toto* (i.e., the entire correspondence was not delivered to the Office). 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), an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s) and/or fee(s) were filed in the Office with such correspondence. Rather, where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP § 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

¹ The postcard receipt did contain a stamp marked "Received October 30, 2003 Licensing and Review."

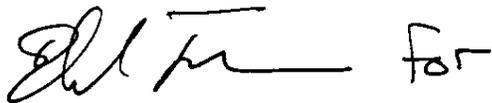
Here, the application file contains some papers that were filed on October 27, 2003; specifically a Utility Patent Application Transmittal, a Request for Early Publication, a 37 CFR 1.63 declaration, and an IDS.

Accordingly, the petition is **DISMISSED**.

The application will be accorded a filing date based upon the date that the missing specification was received in the Office, or April 7, 2004.

The application file will be forwarded to the Office of Initial Patent Examination for further processing with a **filing date of April 7, 2004**, using the application papers submitted on October 27, 2003, together with the 25 pages of specification and the 6 sheets of drawings filed on April 7, 2004.

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

A handwritten signature in black ink, appearing to read "Charles Pearson" followed by a flourish and the word "for".

Charles Pearson
Director
Office of Petitions



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

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MAR 18 2005

OFFICE OF PETITIONS

In re Application of :
Burford, et al. :
Application No. 10/706,480 : DECISION DISMISSING PETITION
Filed: October 30, 2003 :
Attorney Docket No. 038190/268379 :

This is a decision on the "Request for Reconsideration of Petition To Grant Filing Date And To Refund Petition Fee", filed July 23, 2004, requesting that the above-identified application be accorded a filing date of October 27, 2003.

The request is **GRANTED**.

Application papers in the above-identified application were deposited on October 27, 2003. However, on March 29, 2004, the Initial Patent Examination Division mailed applicant a "Notice of Incomplete Nonprovisional Application." Applicants were notified that the application papers had not been accorded a filing date because the application was deposited without a specification. This Notice set a two month period for reply.

In response, on April 7, 2004, Applicants filed a petition to accord a filing date of October 27, 2003. Accompanying the petition was a copy of the application papers, including the specification. Applicants asserted that a complete application, including a specification, was filed on October 27, 2003. As proof thereof, applicants submitted: (1) a copy of the original application transmittal letter, bearing Express Mail Label No. EV 331608718 US, and itemizing the items allegedly filed with the

application, including 25 pages of specification; (2) a copy of the Express Mail label bearing Express Mail Label No. EV 331608718 US and a date-in of October 27, 2003; and (3) a copy of a postcard receipt, itemizing the application, but lacking a USPTO date stamp dated October 27, 2003. Petitioner pointed out that the Express mail package contained both the application filing and a Petition for License for Foreign Filing.

In a decision mailed on June 10, 2004, the petition was dismissed. Applicants were told they did not submit a proper postcard receipt evidencing a receipt date of October 27, 2003 (applicants' postcard receipt contained a stamp reading "RECEIVED OCT 30, 2003 LICENSING & REVIEW"). In addition, Applicants were cited to MPEP 513, which states that 37 CFR 1.10(e) can only be relied upon when an application was lost *in toto*.

However, upon further consideration, it is concluded that petitioner is not relying solely upon 37 CFR 1.10(e) to accord the application a filing date of October 27, 2003. Rather, petitioner is relying upon **both** the postcard receipt and 37 CFR 1.10(e). The postcard receipt establishes that the application was complete and received in the Office on October 30, 2003. Petitioner's Express Mail mailing label establishes that the application was deposited via Express Mail on October 27, 2003. Accordingly, petitioner is entitled to a filing date of October 27, 2003.

However, as the petition was necessitated by petitioner's filing error, the petition fee will not be refunded. Petitioner is directed to MPEP 501(III), which states in pertinent part:

Those who correspond with the USPTO are strongly encouraged not to include correspondence which will have to be directed to different areas (e.g., Patents and Trademarks) of the Office in a single envelope. Including multiple papers in a single envelope increases the likelihood that one or more of the papers will be delayed before reaching the appropriate area. Placing the papers in separately addressed envelopes will reduce the number of actions being performed by the USPTO unnecessarily or inappropriately.

The application file will be forwarded to the Office of Initial Patent Examination for further processing with a **filing date of October 27, 2003**, using the application papers submitted on October 27, 2003, together with the 25 pages of specification and the 6 sheets of drawings filed on April 7, 2004.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 571-272-3207.



Charles Pearson
Director
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

1744

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

SOCAL IP LAW GROUP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE, CA 91362

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FEB 09 2004

OFFICE OF PETITIONS

In re Application of :
Fencl and Culbert :
Reissue Application No.: 10/706,483 :
Filed: November 12, 2003 :
Attorney Docket No: S002-P02005US :
For: GERMICIDAL LAMP FOR HARSH ENVIRONMENTS :

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed November 12, 2003.

The petition is **GRANTED**.

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

The above-cited reissue application was filed on November 12, 2003, and was accompanied by a declaration executed by only inventor Culbert. A petition under 37 CFR 1.47 was also filed on November 12, 2003, indicating that inventor Fencl expressly refused to execute the declaration for the reissue application. A letter from the attorney for inventor Fencl accompanied the petition expressing inventor Fencl's refusal to execute the declaration.

Petitioner has shown that inventor Fencl has expressly refused accept the application papers for review and had refused to join the above-identified reissue application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE NW
WASHINGTON DC 20005

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MAR 14 2006

OFFICE OF PETITIONS

In re Application of :
Beatty et al. : DECISION ON PETITION
Application No. 10/706,484 : UNDER 37 CFR 1.78(a)(3)
Filed: 12 November, 2003 :
Atty Docket No. 2384.002REI2 :

This is a decision on the petition styled under 37 CFR 1.78 which is treated as a petition under 37 CFR 1.78(a)(3), filed 24 August, 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 on 5 May, 2005.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the

prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the 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 application(s) 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(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(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(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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

This application is being forwarded to Technology Center Art Unit 3739 for appropriate action on the amendment filed 5 May, 2005, including consideration by the examiner of applicant's

Application No. 10/706,484

3

entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.


Frances M. Hicks
Lead Paralegal
Office of Petitions

Encl: Corrected Filing Receipt


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 United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/706,484	11/12/2003	3739	385	1125	8	19	3

CONFIRMATION NO. 7593
CORRECTED FILING RECEIPT


OC000000018222211

 26111
 STERNE, KESSLER, GOLDSTEIN & FOX PLLC
 1100 NEW YORK AVENUE, N.W.
 WASHINGTON, DC 20005

Date Mailed: 03/07/2006

Receipt is acknowledged of this reissue 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)

 Graydon Ernest Beatty, St. Paul, MN;
 Jonathan Kagan, Hopkins, MN;
 Jeffrey Robert Budd, Shoreview, MN;

Power of Attorney: The patent practitioners associated with Customer Number **26111**.

Domestic Priority data as claimed by applicant

 This application is a REI of 08/387,832 05/26/1995 PAT 6,240,307
 which is a 371 of PCT/US93/09015 09/23/1993
 which is a CIP of 07/949,690 09/23/1992 PAT 5,311,866
 and is a CIP of 07/950,448 09/23/1992 PAT 5,297,549
 This application 10/706,484
 is a CIP of 08/376,067 01/20/1995 PAT 5,553,611
 which is a CON of 08/178,128 01/06/1994 ABN

Foreign Applications
If Required, Foreign Filing License Granted: 03/07/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/706,484
Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Endocardial Mapping System

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other

agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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



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PATTERSON & SHERIDAN, LLP.
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SUITE 1500
HOUSTON, TX 77056

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DEC 04 2007

OFFICE OF PETITIONS

In re Application of :
Michael Panosian :
Application No. 10/706,491 :
Filed: November 12, 2003 :
Attorney Docket No. CAHD/0008 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 23, 2006, to revive the above-identified application. The delay in responding is regretted.

The petition is **DISMISSED**.

The application became abandoned for failure to respond to the non-final Office action mailed December 8, 2005. A Notice of Abandonment was mailed on October 5, 2006.

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

With respect to item (3), the petition cannot be granted since it appears that petitioner was not a representative of the owner at the time of abandonment. This application was abandoned on March 9, 2006 and petitioner did not acquire interest in this application until June 29, 2006, which is the date of execution of the assignment document in the USPTO. Unfortunately, petitioner is not deemed to be in a position to make the statement of unintentional delay.

Further, a review of USPTO assignment records indicate that Olympia Group, Inc. was responsible for prosecuting the above application when the response was due to avoid abandonment. Since the Office must determine if the failure to timely respond was in fact unintentional, the statement must be made by the party of interest at the time of abandonment.

When the issue of revival is addressed, the focus must be on the rights of the party or parties as of the date of abandonment. See *Kim v. Quigg*, 718 F.Supp. 1280, 1284, 12 USPQ 1604, 1607 (E.D. Va. 1989).

Since petitioner was not associated with the application at the time of abandonment, he is not in a reasonable position to make the statement of unintentional delay. However, petitioner may wish to indicate that such statement is or was made after an inquiry into the underlying facts and circumstances surrounding the unintentional delay in timely submitting the required reply to the Office action. See 37 CFR 10.18.

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

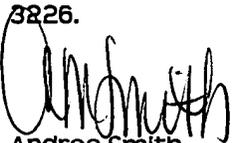
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

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


Andrea Smith
Petitions Examiner
Office of Petitions



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3040 POST OAK BOULEVARD
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HOUSTON, TX 77056

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SEP 02 2008

OFFICE OF PETITIONS

In re Application of :
Michael Panosian :
Application No. 10/706,491 :
Filed: November 12, 2003 :
Attorney Docket No. CAHD/0008 :

ON PETITION

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

In the instant petition, Mr. Patterson (Petitioner) asserts that Mr. James C. Holcomb, Jr. was the trustee for the bankrupt Olympia during the period of abandonment and that qualifies Petitioner to make the statement of unintentional abandonment.

Since 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, the statement is accepted as constituting a certification of the unintentional delay¹. However, if petitioner discovers that the delay was intentional, petitioner must so notify the Office.

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

This application file is being referred to Technology Center Art Unit 3723 for review of the amendment filed on October 23, 2006.

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

Andrea Smith
Petitions Examiner
Office of Petitions

¹ See 37 CFR 10.18.



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TECHNOLOGY CENTER 3600

Steven Horowitz
Counselor At Law
Suite 700
295 Madison Avenue
New York, NY 10017

In re Application of:	:	
David Tropp	:	DECISION ON PETITION
Serial No. 10/706,500	:	TO MAKE SPECIAL
Filed: November 11, 2003	:	(COUNTER TERRORISM,
For: METHOD OF IMPROVING AIRLINE	:	INFRINGEMENT)
LUGGAGE INSPECTION	:	

This is a decision on the petitions filed January 30, 2004 under 37 CFR 1.102 (d) to make the above-identified application special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section XI: Inventions for Countering Terrorism, or in the alternative M.P.E.P. § 708.02, item II: Infringement.

The requirements for granting special status under M.P.E.P. § 708.02, Section XI: Inventions for Countering Terrorism are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); and (B) a statement explaining how the invention contributes to countering terrorism.

The requirements for granting special status under M.P.E.P. § 708.02, item II: Infringement are: (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.

Since each above-noted petition requires a petition fee under 37 CFR 1.17(h) of \$130.00, applicant is required to submit a total of \$260.00 to have both petitions

considered. A review of the file record reveals that applicant has submitted \$130.00 in petition fees, with no authorization to charge additional fees. Therefore, applicant is required to either submit an additional \$130.00 to have both petitions considered. Or, in the alternative, choose one of the two petitions which he wishes to have considered for his, previously submitted, \$130.00 fee.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

For the above stated reasons, the petitions are **DISMISSED**.



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

KJD/rwg: 10/26/04



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051705

STEVEN HOROWITZ
SUITE 700
259 MADISON AVENUE
NEW YORK, NY 10017

MAY 31 2005

In re Application of:
DAVID TROPP
Serial No.: 10/706,500
Filed: 12 November 2003
Title: METHOD OF IMPROVING AIRLINE
LUGGAGE INSPECTION

DECISION ON PETITION
TO MAKE SPECIAL
(COUNTERING TERRORISM)

This is a decision on the petition filed on March 1, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(XI) in accordance with 37 CFR § 1.102 (2004).

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

The petition being based upon countering terrorism, the applicable rule is 37 CFR 1.102(c). Under 1.102(c), no fee is required, but a statement explaining how the invention materially contributes to countering terrorism is necessary.

In the USPTO's final rule amending 37 CFR 1.102 to eliminate the fee requirement for petitions to make special, the following standard was set for determining whether a invention qualified as "materially...countering terrorism":

The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advanced examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...

Applicants are reminded that any identification of a basis for requesting special status and a statement of compliance with the

technology specific requirement for special status must be based upon a good faith belief that the invention in fact qualifies for special status. see §§ 1.56 and 10.18...

Comment 65: The Office has received internal comments expressing concern that some applicants may view the lack of a petition fee as an inducement to file petitions where the nexus between the invention and the countering of terrorism is "strained."

Response: The comment has been adopted in part. The discussion of the rule amendment has focused on the need for applicants to recognize the "material" aspect of the claimed invention's relationship to countering terrorism, which will be further addressed in an MPEP revision. In view of such discussion, applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism.

69 Fed. Reg. 56382, 56511 (Sept. 21, 2004).

Applicant's statement alleged that the invention concerned improved airline security through the use of locks having a master key which would reduce the cutting of locks by airline security, thereby reducing the amount of obviously unlocked luggage that can be a potential security hazard.

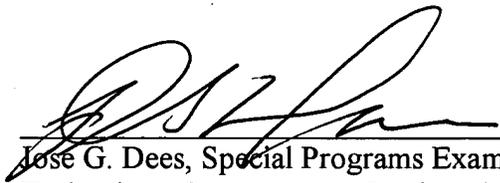
Applicant's claims are directed towards a method of making certain locks available for sale, marketing those locks, and action of a luggage screening entity under a prior agreement. Applying the standards evidenced in the administrative history of the Rule, the invention appears to be principally directed towards a business model concerning a sanctioned combination lock and a restrictedly distributed master key, with application in a baggage handling system. The main benefit appears to be prevention of theft or loss of items.

The counter-terrorism aspect appears to consist only of the secure locking of luggage after the luggage has been searched and verified safe, and only while within the already secured baggage handling zone. Applicants allege that a terrorist who managed to sneak an explosive device into the security zone would be foiled by the fact that some bags would be locked. Even if all travelers, airports, and security agents participated in applicant's lock system, a terrorist would merely be required to supply his own bag, or alternatively, break into a bag and insert his device.

The counter-terrorism aspect of this invention appears to be minor rather than material. Classifying this invention as an anti-terrorism device does not pass the materiality bar desired by the Office. In order for the Office to concentrate its resources on inventions which will materially counter terrorist activities, inventions not possessing a direct impact on such activities will not be made special.

This application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Jose G. Dees, Special Program Examiner, at (571) 272-1569.



Jose G. Dees, Special Programs Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components



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DE | *IFW*

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051705

STEVEN HOROWITZ
SUITE 700
259 MADISON AVENUE
NEW YORK, NY 10017

MAY 31 2005

In re Application of:
DAVID TROPP
Serial No.: 10/706,500
Filed: 12 November 2003
Title: METHOD OF IMPROVING AIRLINE
LUGGAGE INSPECTION

DECISION ON PETITION
TO MAKE SPECIAL
(COUNTERING TERRORISM)

This is a decision on the petition filed on March 1, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(XI) in accordance with 37 CFR § 1.102 (2004).

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

The petition being based upon countering terrorism, the applicable rule is 37 CFR 1.102(c). Under 1.102(c), no fee is required, but a statement explaining how the invention materially contributes to countering terrorism is necessary.

In the USPTO's final rule amending 37 CFR 1.102 to eliminate the fee requirement for petitions to make special, the following standard was set for determining whether a invention qualified as "materially...countering terrorism":

The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advanced examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...

Applicants are reminded that any identification of a basis for requesting special status and a statement of compliance with the

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technology specific requirement for special status must be based upon a good faith belief that the invention in fact qualifies for special status. see §§ 1.56 and 10.18...

Comment 65: The Office has received internal comments expressing concern that some applicants may view the lack of a petition fee as an inducement to file petitions where the nexus between the invention and the countering of terrorism is "strained."

Response: The comment has been adopted in part. The discussion of the rule amendment has focused on the need for applicants to recognize the "material" aspect of the claimed invention's relationship to countering terrorism, which will be further addressed in an MPEP revision. In view of such discussion, applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism.

69 Fed. Reg. 56382, 56511 (Sept. 21, 2004).

Applicant's statement alleged that the invention concerned improved airline security through the use of locks having a master key which would reduce the cutting of locks by airline security, thereby reducing the amount of obviously unlocked luggage that can be a potential security hazard.

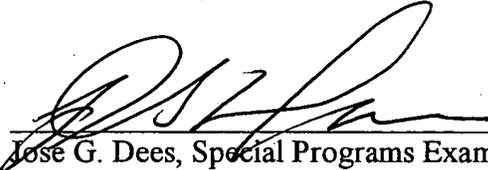
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The counter-terrorism aspect of this invention appears to be minor rather than material. Classifying this invention as an anti-terrorism device does not pass the materiality bar desired by the Office. In order for the Office to concentrate its resources on inventions which will materially counter terrorist activities, inventions not possessing a direct impact on such activities will not be made special.

This application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Jose G. Dees, Special Program Examiner, at (571) 272-1569.



Jose G. Dees, Special Programs Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components



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072005

STEVEN HOROWITZ
295 MADISON AVENUE
SUITE 700
NEW YORK, NY 10017

AUG - 1 2005

In re Application of:
DAVID TROPP
Serial No.: 10/706,500
Filed: 11 November 2003
Title: METHOD OF IMPROVING AIRLINE
LUGGAGE INSPECTION

DECISION ON PETITION
TO MAKE SPECIAL
(COUNTERING TERRORISM)

This is a decision on the petition filed on March 1, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(XI) in accordance with 37 CFR § 1.102 (2004).

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

The petition being based upon countering terrorism, the applicable rule is 37 CFR 1.102(c). Under 1.102(c), no fee is required, but a statement explaining how the invention materially contributes to countering terrorism is necessary.

In the USPTO's final rule amending 37 CFR 1.102 to eliminate the fee requirement for petitions to make special, the following standard was set for determining whether a invention qualified as "materially... countering terrorism":

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Applicant's claims are directed towards a method of making certain locks available for sale, marketing those locks, and action of a luggage screening entity under a prior agreement. Applying the standards evidenced in the administrative history of the Rule, the invention appears to be principally directed towards a business model concerning a sanctioned combination lock and a restrictedly distributed master key, with application in a baggage handling system. The main benefit appears to be prevention of theft or loss of items.

The counter-terrorism aspect appears to consist only of the secure locking of luggage after the luggage has been searched and verified safe, and only while within the already secured baggage handling zone. Applicants allege that a terrorist who managed to sneak an explosive device into the security zone would be foiled by the fact that some bags would be locked. Even if all travelers, airports, and security agents participated in applicant's lock system, a terrorist would merely be required to supply his own bag, or alternatively, break into a bag and insert his device.

The counter-terrorism aspect of this invention appears to be minor rather than material. Classifying this invention as an anti-terrorism device does not pass the materiality bar desired by the Office. In order for the Office to concentrate its resources on inventions which will materially counter terrorist activities, inventions not possessing a direct impact on such activities will not be made special.

This application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Jose G. Dees, Special Program Examiner, at (571) 272-1569.



Jose G. Dees, Special Programs Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components



ROCKWELL COLLINS, INC.
Attention: Kyle Eppeler
M/S 124-323
400 Collins Rd. NE
Cedar Rapids IA 52498

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MAR 14 2008

OFFICE OF PETITIONS

In re Application of
Patrick D. McCusker
Application No. 10/706,504
Filed: November 12, 2003
Attorney Docket No. 03CR163/KE

ON PETITION

This is a decision on the petition filed February 13, 2008 to withdraw the holding of abandonment, which is being treated under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before November 9, 2007 as was required by the Notice of Allowance mailed August 9, 2007. This application therefore became abandoned on November 12, 2007. Accordingly, a Notice of Abandonment was sent via email notification on December 17, 2007.

The file record discloses that the Notice of Allowance was mailed to the address of record. However, petitioner contends that the Notice of Allowance was not received. In support, petitioner indicates that a search of the file jacket revealed that the Notice was not received and submits copies of pages from the docketing system and the file jacket, wherein receipt of the Notice would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2624 for a re-sending of the Notice of Allowance and Notice of Allowability.

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

B7



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,507	11/11/2003	Raymond Bryce Bushnell	108682-133291	7225

25943 7590 07/22/2005

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

EXAMINER

CASTRO, ARNOLD

ART UNIT	PAPER NUMBER
----------	--------------

3747

DATE MAILED: 07/22/2005

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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In re Patent No. BUSHNELL ET AL.
Issue Date: June 21, 2005
Appl No.: 10/706,507
Filed: November 11, 2003
For: Henry Yuen

:
:
: **DECISION GRANTING**
: **PETITION**
: *37 CFR 1.324*
:
:
:
:

This is a decision on the petition under 37 CFR 1.48, filed February 1, 2005. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Yuen Henry
Supervisory Patent Examiner
Art Unit 3747
Patent Examining Group 3747

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/19/07

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction on Patent No.: 7014918

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

Please complete this form and return with file, within 7 days to:

Palm location 7580, Certificates of Correction Branch – South Tower – 9A22

If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.

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

Valerie Jackson

Thank You For Your Assistance

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

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

all of the requested changes are acceptable
with the exception that, in column 9, line 13, the
hyphen representative of a chemical bond after "y"
should not be a subscript

MARK EASHOO, PH.D.
SUPERVISORY PATENT EXAMINER

M. Eashoo

8/7/09

1796

SPE

Art Unit



HUGH D JAEGER
P.O. BOX 672
150 LAKE STREET WEST, SUITE 106
WAYZATA MN 55391

JAN 11 2007

In re Application of: BURBA, et al.	:	DECISION ON PETITION TO
Serial No.: 10/706,554	:	MAKE SPECIAL FOR NEW
Filed: November 12, 2003	:	APPLICATION UNDER 37
Title: ULTRASOUND PROBE POSITIONING	:	C.F.R. § 1.102 & M.P.E.P. §
IMMERSION SHELL	:	708.02

This is a decision on the petition filed on October 25, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). It replaces and supercedes the prior mailed decision which inadvertently listed an incorrect Title of invention in the heading. The prior decision has been closed from the official file wrapper and from public view.

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

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.
5. The petition must be filed with the application.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was not filed with the application. As noted in the policy statement referenced above, any petition to make special filed on or after the effective date must meet the new requirements set forth in the 71 Fed. Reg. 36323 notice. Applications filed before the effective date will not be eligible for the revised accelerated examination program. The effective date of the change in practice was August 25, 2006. Thus the instant petition must be reviewed under the revised practice and the instant application is ineligible.

The petition appears on its face to have been filed without recognition of the August 25, 2006 policy change to the petition to make special program. The changes to the program are substantial. A copy of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) is being attached to the mailed decision for petitioner's review. Further guidance may be found at www.USPTO.gov under the accelerated examination link.

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

Any inquiry regarding this decision should be directed to J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.



J. Harrison
Special Program Examiner
Technology Center 3700



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GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C.
PO BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

Applicant : Michael A. Masini : DECISION ON REQUEST FOR
Patent Number : 7626071 : RECALCULATION of PATENT
Issue Date : 12/01/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/706,570 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/12/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1369** 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.



PATENT

ATTORNEY DOCKET NO.: 17613/09000 CIP2

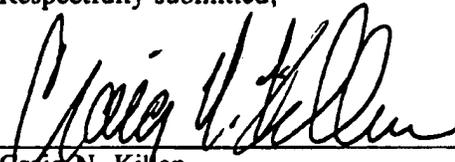
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)	Examiner: Not yet assigned
DONAVAN J. ALLEN)	
)	
Serial No.: 10/706,604)	Art Unit: 1744
)	
Filed: November 12, 2003)	
)	
Title: AIR RECIRCULATING SURFACE)	
CLEANING DEVICE)	

PETITION TO MAKE SPECIAL

Pursuant to 37 CFR 1.102(c), Applicant hereby petitions to make the application special based on Applicant's age. Enclosed herewith is a statement signed by the Applicant indicating that he is 65 years of age or more.

Respectfully submitted,



 Craig N. Kilen
 Registration No. 35,218

NELSON MULLINS RILEY & SCARBOROUGH
P.O. Box 11070
Columbia, SC 29211-1070
(803) 255-9382
Fax (803) 255-9831

PETITION GRANTED


 William Krynski
 Quality Assurance Specialist
 Technology Center 1700
 JUN - 7 2007



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BRINKS HOFER GILSON & LIONE
INFINEON
PO BOX 10395
CHICAGO IL 60610

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JUN 11 2007

OFFICE OF PETITIONS

In re Application of :
Jorn Maeritz :
Application No. 10/706,612 : ON PETITION
Filed: November 12, 2003 :
Attorney Docket No. 10808/112 :

This is a decision on the petition, filed June 8, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the Issue fee paid on May 8, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the Issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 2813 will consider the request for continued examination under 37 CFR 1.114.


Karen Creasy
Petitions Examiner
Office of Petitions

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

BRINKS HOFER GILSON & LIONE
INFINEON
PO BOX 10395
CHICAGO IL 60610

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FEB 05 2008

OFFICE OF PETITIONS

In re Application of :
Jorn Maeritz :
Application No. 10/706,612 : LETTER REGARDING
Filed: November 12, 2003 : PATENT TERM ADJUSTMENT
Attorney Docket No. 10808/112 :

This is in response to the REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT filed October 30, 2007. Applicant discloses that the patent term adjustment (PTA) indicated on the Determination of Patent Term Adjustment may extend the term of this patent by too many days.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is TEN (10) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 31, 2007, the Office mailed a Notice of Allowance with 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 65 days. Applicant does not state a basis for their disclosure that the patent term adjustment may be in error.

Nonetheless, a review of the application history confirms that additional periods of reduction should have been entered pursuant to 37 CFR §§ 1.704(b) and 1.704(c)(10). First, of all, applicant did not file the Issue fee payment in response to the first Notice of Allowance mailed February 7, 2007, until May 8, 2007¹. Accordingly, a period of reduction of 1 day should have been entered pursuant to 37 CFR 1.704(b).

Moreover, after the mailing of the first Notice of Allowance on February 7, 2007, on June 8, 2007, applicant filed a Request for Continued Examination (RCE) and IDS (and petition to withdraw from issue). Prior to filing the RCE, applicant paid the Issue Fee. As discussed above, this set the calculation of the period of reduction pursuant to 37 CFR 1.704(b), if any, for applicant delay. The filing of the RCE and IDS after the mailing of the Notice of Allowance constituted a failure to engage pursuant to 37 CFR 1.704(c)(10). This period is 54 days, counting the number of days in the period beginning on June 8, 2007, the date of filing of the RCE and IDS and ending on July 31, 2007, the date of mailing of the new Notice of Allowance in response.

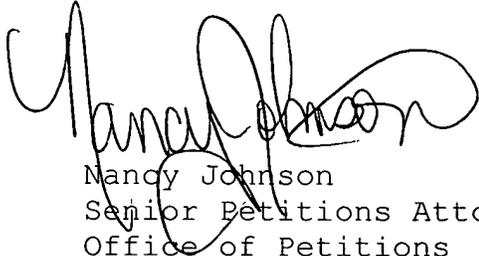
In view thereof, the correct patent term adjustment at the time of mailing of the second Notice of Allowance is TEN (10) days.

As this letter was submitted to advise the Office of an error in applicant's, the Office will not assess the \$200.00 fee under 37 CFR 1.18(e). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

¹ The Issue Fee payment was timely by virtue of a certificate of mailing dated May 4, 2007. It is noted 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.

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

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with the first name "Nancy" written in a larger, more prominent script than the last name "Johnson".

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

PTA Calculations for Application: 10/706612

Application Filing Date:	11/12/2003	PTO Delay (PTO):	192
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	127
Post-Issue Petitions:	0	Total PTA (days):	10
PTO Delay Adjustment:	-55		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
104	02/01/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
103	02/01/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
102	02/01/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	1		
101	02/01/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		54	
95	07/31/2007	MAIL NOTICE OF ALLOWANCE			
94	07/30/2007	ISSUE REVISION COMPLETED			
93	07/10/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
92	07/10/2007	DOCUMENT VERIFICATION			
91	07/10/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
90	07/09/2007	NOTICE OF ALLOWABILITY			
89	06/08/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
88	06/08/2007	REFERENCE CAPTURE ON IDS			
87	06/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
86	07/02/2007	DATE FORWARDED TO EXAMINER			
85	06/08/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
84	07/02/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
83	06/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
82	06/11/2007	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE - WITH ASSIGNED PATENT NO.			
81	06/11/2007	WITHDRAWAL PATENT CASE FROM ISSUE			
80	06/08/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			

79	06/08/2007	WITHDRAWAL PATENT CASE FROM ISSUE			
78	06/08/2007	PETITION ENTERED			
77	05/23/2007	ISSUE NOTIFICATION MAILED			
76	06/12/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
75	05/15/2007	EXPORT TO FINAL DATA CAPTURE			
74	05/14/2007	DISPATCH TO FDC			
73	05/14/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
72	05/08/2007	ISSUE FEE PAYMENT VERIFIED			
71	05/08/2007	ISSUE FEE PAYMENT RECEIVED			
70	03/19/2007	FINISHED INITIAL DATA CAPTURE			
69	02/09/2007	EXPORT TO INITIAL DATA CAPTURE			
68	02/07/2007	MAIL NOTICE OF ALLOWANCE			
67	02/07/2007	MAIL EXAMINER'S AMENDMENT			
66	02/05/2007	ISSUE REVISION COMPLETED			
65	02/05/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	02/05/2007	EXAMINER'S AMENDMENT COMMUNICATION			
63	02/05/2007	NOTICE OF ALLOWABILITY			
62	01/11/2007	DATE FORWARDED TO EXAMINER			
61	12/26/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
60	01/11/2007	DATE FORWARDED TO EXAMINER			
59	12/26/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		62	51
58	01/11/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
57	12/26/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
56	12/26/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
55	10/17/2006	MAIL ADVISORY ACTION (PTOL - 303)			
54	10/16/2006	ADVISORY ACTION (PTOL-303)			
53	09/30/2006	DATE FORWARDED TO EXAMINER			
52	09/27/2006	AMENDMENT AFTER FINAL REJECTION			
51	07/25/2006	MAIL FINAL REJECTION (PTOL - 326)	32		48
50	07/24/2006	FINAL REJECTION			
49	03/02/2006	DATE FORWARDED TO EXAMINER			
48	02/23/2006	RESPONSE AFTER NON-FINAL ACTION		65	45

47	02/23/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
46	02/23/2006	NEW OR ADDITIONAL DRAWING FILED			
45	09/20/2005	MAIL NON-FINAL REJECTION			
44	09/19/2005	NON-FINAL REJECTION			
43	06/28/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	07/25/2005	DATE FORWARDED TO EXAMINER			
41	07/21/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
40	06/21/2005	MAIL RESTRICTION REQUIREMENT	160		-1
39	06/20/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
38	05/10/2005	CASE DOCKETED TO EXAMINER IN GAU			
37	02/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
36	02/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
35	02/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
34	01/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
33	01/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
32	01/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
31	11/09/2004	CASE DOCKETED TO EXAMINER IN GAU			
30	10/29/2004	CORRESPONDENCE ADDRESS CHANGE			
29	10/27/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
28	10/27/2004	CASE DOCKETED TO EXAMINER IN GAU			
27	06/28/2004	REFERENCE CAPTURE ON IDS			
26.7	06/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	06/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	06/28/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
24	06/28/2004	PRELIMINARY AMENDMENT			
23	10/18/2004	TRANSFER INQUIRY TO GAU			
22	08/26/2004	APPLICATION RETURN FROM OIPE			
21	08/26/2004	APPLICATION RETURN TO OIPE			
20	08/26/2004	APPLICATION RETURN FROM OIPE			
19	08/26/2004	APPLICATION IS NOW COMPLETE			
18	08/26/2004	APPLICATION RETURN TO OIPE			
17	08/26/2004	APPLICATION RETURN FROM OIPE			
16	08/26/2004	APPLICATION IS NOW COMPLETE			

15	08/26/2004	APPLICATION RETURN TO OIPE			
14	08/26/2004	APPLICATION DISPATCHED FROM OIPE			
13	08/26/2004	APPLICATION IS NOW COMPLETE			
12	06/28/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
10	06/28/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	06/28/2004	TRANSLATION OF CLAIMS INTO ENGLISH			
8	06/28/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
7	06/28/2004	TRANSLATION OF SPECIFICATION INTO ENGLISH			
6	04/26/2004	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
4	02/09/2004	CLEARED BY L&R (LARS)			
3	01/29/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	12/17/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/12/2003	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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DAVID W. WESTPHAL
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P.O. BOX 1267
PONCA CITY OK 74602-1267

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AUG 16 2004

OFFICE OF PETITIONS

In re Application of :
Xie et al. :
Application No. 10/706,644 : ON PETITION

Deposited: November 12, 2003 :
Attorney Docket No.: 1856-36301 :
(9782.0-02) :
Title: Novel Syngas Catalysts and :
Their Method of Use :

This is a decision on the petition to accord filing date filed June 1, 2004, requesting that the above-identified application be accorded a filing date of November 12, 2003.

Application papers in the above-identified application were deposited on November 12, 2003. However, on April 9, 2004 and May 14, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.¹

In response, 3 sheets of drawings, including figures 1-3 and the present petition were filed on June 1, 2004. The petition contends that the application as filed contained 3 sheets of drawings including figures 1-3 and were described in the original filed specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of " Formal Drawings, figures 1-3 (3 sheets)" on November 12, 2003.

¹See 35 U.S.C. 111(a) (4)

Applicant's postcard receipt is prima facie² evidence that drawings were received on November 12, 2003, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 3 sheets of drawings, including figures 1-3, were received on November 12, 2003, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted. No petition fee is due. Deposit account 03-2769 has been credited the \$130.00 petition fee.

~~Since the original drawings cannot be located in the Office, the~~
copy of the drawings supplied on June 1, 2004, will be used for processing and examination purposes.

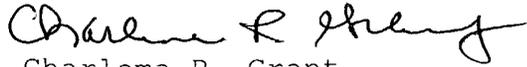
The office acknowledges receipt of the declaration and application data sheet.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The application will then be returned to the Office of Initial Patent Examination for further processing with a filing date of November 12, 2003, using the 3 sheets of drawings supplied on June 1, 2004.

²A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.

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



Charlema R. Grant

Petition Attorney

Office of Petitions

cc: Jeffrey L. Johnson
Conley Rose, P.C.
P.O. Box 3267
Houston, Texas 77253-3267



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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/706,647	11/12/2003	2822	770	5649-927dv	19	12	3

CONFIRMATION NO. 7889

CORRECTED FILING RECEIPT



OC000000012317622

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

Date Mailed: 04/08/2004

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

Applicant(s)

Hyoung-Joon Kim, Seoul, KOREA, REPUBLIC OF;
 Young-Wook Park, Gyeonggi-do, KOREA, REPUBLIC OF;
 Byeong-Yun Nam, Gyeonggi-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

This application is a DIV of 10/052,721 01/18/2002 PAT 6,680,511

Foreign Applications

REPUBLIC OF KOREA 2001-3066 01/19/2001

If Required, Foreign Filing License Granted: 02/09/2004

Projected Publication Date: 05/20/2004

Non-Publication Request: No

Early Publication Request: No

Title

Methods of fabricating integrated circuit devices providing improved short prevention

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.

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NOT GRANTED

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



MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of :
Kim et al. : DECISION GRANTING
Application No. 10/706,647 : PETITION
Filed: November 12, 2003 :
Attorney Docket No. 5649-927DV :

This is a decision on the petition under 37 CFR 1.10(c), filed March 29, 2004, requesting that the above-identified application be accorded a filing date of November 12, 2003, rather than the presently accorded filing date of November 13, 2003.

Petitioner alleges that the application was deposited in Express Mail service on November 12, 2003. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV318419683US. Although the date-in is blank, the Express Mail label contains a United States Postal Service (USPS) stamp of November 12, 2003. The same Express Mail label number was placed on the original application papers located in the official file.

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

The application has undergone pre-exam processing and a corrected filing receipt was mailed on February 8, 2004, indicating that the application was accorded a filing date of November 12, 2003.

Therefore, this matter will be referred to Technology Center 2822 to await a response to the nonfinal Office action mailed on August 25, 2004.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 6, 2006

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction on Patent No.: 6,953,744/10706647

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

Please complete this form and return with file, within 7 days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, return to employee (named below) via PUBSCofC Team in **MADRAS.**

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

Zandra V. Smith
Supervisory Patent Examiner


SPE

2822
Art Unit



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DEC 14 2007

OFFICE OF PETITIONS

In re Application of :
Joseph L. Witztum et al :
Application No. 10/706,659 : DECISION ON PETITION
Filed: November 12, 2003 :
Attorney Docket No. 1034123- :
000014/SD 2000-045-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 16, 2006, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on May 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, \$395 filing fee (received April 19, 2007, and submission as required by 37 CFR 1.114, (2) the petition fee of \$750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of October 16, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 1641 for processing the request for continued examination filed April 19, 2007 and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received with the petition on June 18, 2007.

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

Frances Hicks
Petitions Examiner
Office of Petitions



JAMES V. COSTIGAN, ESQ.
HEDMAN & COSTIGAN, P.C.
SUITE 2003
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2646

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OFFICE OF PETITIONS

In re Application of :
Filippo Oneda :
Application No. 10/706,681 : DECISION DISMISSING
Filed: 12 November, 2003 : PETITION
Attorney Docket No. 1340-019 :

This is a decision on the petition filed on 13 August, 2004, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application, including Figure 1 described in the specification, be accorded a filing date of 12 November, 2003.

The application was filed on 12 November, 2003. However, on 4 August, 2004, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application" stating that the application had been accorded a filing date of 12 November, 2003, and advising applicants that Figure 1 described in the specification (description and claims) appeared to have been omitted from the application.

In response, on 13 August, 2004, the present petition was filed, along with a copy of Figure 1. Petitioner asserts that Figure 1 was filed with the other application papers deposited on 12 November, 2003, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). Petitioner asserts that a copy of a return receipt postcard showing receipt of Figure 1 in the USPTO is being supplied with the present petition. In support, a copy of petitioner's postcard receipt was supplied with the present petition. However, no copy of an itemized postcard receipt can be located among the papers received with the petition filed on 13 August, 2004. As such, the petition must be dismissed without prejudice to reconsideration pending submission of a copy of the originally-filed itemized postcard receipt.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision. If no response is received within two (2) months, the application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of 12 November, 2003, using only the application papers filed on that date.

As the present petition was not necessitated by an error on the part of the USPTO, the petition fee of \$130.00 will be charged to counsel's deposit account, No. 08-1540.

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

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

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

By hand: U.S. Patent and Trademark Office
 220 20th Street S.
 Customer Window, Mail Stop Petition
 Crystal Plaza 2, Lobby, Room 1B03
 Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



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421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

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OFFICE OF PETITIONS

In re Application of
James H. Hogg, et. al.
Application No. 10/706,684
Filed: November 12, 2003
Attorney Docket No. MS1-1715US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed October 18, 2006¹. A Notice of Abandonment was mailed on May 11, 2007.

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

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

This application file is being referred to Technology Center Art Unit 2193 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

¹ Petitioner believes that a response to the Office action mailed October 18, 2006 was submitted on January 18, 2007. However, a review of the record show that an Information Disclosure Statement was filed on January 18, 2007 and not a response to the Office action.



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TC 3600

HARSHAW RESEARCH INCORPORATED
P.O. BOX 418
OTTAWA, KS 66067

In re application of : **DECISION ON PETITION**
Gary Lee Hawk et al : **TO MAKE SPECIAL**
Application No. 10/706,688 : **(APPLICANT'S AGE)**
Filed: November 12, 2003 :
For: PATIENT LIFTING APPARATUS :

This is a decision on the petition submitted on May 19, 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. Hawk 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: 7/17/04



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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Andrew Robert Davids	: DECISION ON REQUEST FOR
Patent Number	: 7622555	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/706,691	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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.



PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

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MAR 08 2005

OFFICE OF PETITIONS

In re Application of :
Timothy J. N. Watson et al :
Application No. 10/706,694 :
Filed: November 12, 2003 :
Attorney Docket No. PC23299A :
For: METHOD FOR PREPARING INDAN-1,3- :
DICARBOXYLIC ACID :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), to revive the above-identified application and on the petition under 37 CFR 1.47(a), filed November 8, 2004.

The petitions are **DISMISSED**.

Any request for reconsideration must be submitted within TWO MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any reply should be entitled "Renewed Petitions under 37 CFR 1.137(b) and 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 nonsigning inventor. 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 1.17(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) since the application cannot be revived until such time as a grantable petition under 37 CFR 1.47(a) has been received.

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

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee; and
- (4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (1) set forth above.

As to item (1), the applicable statute (35 USC 116) requires that a “diligent effort” have been expended in attempting to find or reach the nonsigning inventor. See MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate the nonsigning inventor, such that the declaration can be accepted under 37 CFR 1.47(a).

Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. The statement(s) of fact must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay, will not normally be accepted.

In the instant case, while petitioner has indicated that a request was made on February 28, 2004, March 24, 2004, and September 30, 2004, petitioner has not indicated whether he has attempted other means to locate the inventor, i.e., the telephone directory for the greater Quebec area, E-mail, the internet, or Lexis. Copies of the results of the search must be referred to in any renewed petition. See MPEP 409.03(d). If inventor Mr. Patrice Arpin is located, then a copy of the transmittal letter itemizing the complete application papers, as well as a copy of the proof of service on inventor Mr. Arpin will be required. A cover letter of instructions should accompany the mailing of application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct.

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor’s conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

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: (703) 872-9306
 ATTN: Office of Petitions

Telephone inquiries related to this decision should be directed to Wan Laymon at (571) 272-3220.



Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of
Timothy J. N. Watson et al
Application No. 10/706,694
Filed: November 12, 2003
For: METHOD PREPARING INDAN-
1,3-DICARBOXYLIC ACID

:
: DECISION ON PETITION TO
: REVIVE AND DECISION NOTING
: JOINDER OF INVENTOR AND
: PETITION UNDER 37 CFR 1.47(a)
: MOOT

This is a decision on the renewed petition under 37 CFR 1.137(b) and 37 CFR 1.47(a), filed April 28, 2005 in response to the decision mailed March 8, 2005, which now includes a Declaration signed by previously nonsigning inventor Patrice Arpin in compliance with 37 CFR 1.63.

The Petition under 37 CFR 1.137(b) is GRANTED.

The petition under 37 CFR 1.47(a) is dismissed as MOOT.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This matter is being referred to the Office of Initial Patent Examination for preexamination processing.

Inquiries related to this decision may be addressed to Wan Laymon at (571) 272-3220.


Frances Hicks

Lead 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

THE LAW OFFICE OF KIRK D. WILLIAMS
PO BOX 39425
DENVER, CO 80239-0425

Mail Date: 04/21/2010

Applicant	: John J. Williams JR.	: DECISION ON REQUEST FOR
Patent Number	: 7626987	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/706,704	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1728** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE, OH 44632

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AUG 11 2004

OFFICE OF PETITIONS

In re Application of :
John I. Shipp :
Application No. 10/706,715 : DECISION REFUSING STATUS
Filed: November 12, 2003 : UNDER 37 CFR 1.47(b)
For: SURGICAL LIGATION CLIP :
:

This is in response to the petition under 37 CFR 1.47(b), filed July 9, 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(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 12, 2003 without an executed oath or declaration and naming John I. Shipp as the sole inventor.

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.

In response, on July 9, 2004, the instant petition was filed.

A grantable petition under 37 CFR 1.47(b) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
- (2) an acceptable oath or declaration;
- (3) the petition fee;

- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest; and
- (6) proof of irreparable damage.

Applicant lacks item (5), as set forth above.

As to item (5), Petitioner has failed to show or provide proof that Surgicon has sufficient proprietary interest in the subject matter to justify the filing of the application. Petitioner has submitted a copy of the USPTO "Notice of Recordation Of Assignment Document" for provisional application 60/425,511 (to which the above-identified application claims priority), however, an actual copy of the assignment between the non-signing inventor and Surgicon must be submitted. See MPEP 409.03(f). Acceptable proof would also include a copy of the employment agreement between the non-signing inventor and the Surgicon, 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 Surgicon.

Please note, the last known address of the inventor is assumed to be the address listed in the Declaration.

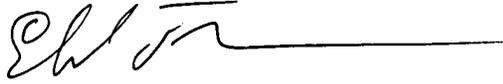
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 Box 1450
 Alexandria, VA 22313

By FAX: (703) 872-9306
 Attn: Office of Petitions

By hand: Customer Service Window
 2011 South Clark Place
 Crystal Plaza Two (left side entrance of building)
 Arlington, VA

Telephone inquiries should be directed to the undersigned at
(703) 306-9200.

A handwritten signature in cursive script, appearing to read 'E. J. Tannouse', followed by a horizontal line extending to the right.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office



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United States Patent and Trademark Office
P.O. Box 1450
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JOHN I. SHIPP
1221 1ST STREET, SOUTH
UNIT 7A
JACKSONVILLE BEACH, FL 32250

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OCT 07 2004

OFFICE OF PETITIONS

In re Application of
John I. Shipp
Application No. 10/706,715
Filed: November 12, 2003
For: SURGICAL LIGATION CLIP

Dear JOHN I. SHIPP:

You are named as the 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 the sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE, OH 44632



MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE, OH 44632

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OCT 07 2004

OFFICE OF PETITIONS

In re Application of :
John I. Shipp :
Application No. 10/706,715 : DECISION GRANTING PETITION
Filed: November 12, 2003 : UNDER 37 CFR 1.47(b)
For: SURGICAL LIGATION CLIP :
:

This is in response to the papers filed September 3, 2004, which have been treated as a "Request For Reconsideration of Petition Under 37 CFR 1.47(b)."

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of by attorney of record Thomas H. Martin establishes that the inventor was mailed the application papers, including the specification, claims and drawings, and refused the request that he sign the declaration. In addition, petitioner has shown that Surgicon has a proprietary interest in the above-identified application with the copy of the assignment document. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office



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MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

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JUL 09 2010

In re Application of : **OFFICE OF PETITIONS**
John I. Shipp :
Patent No. 7,678,125 : **NOTICE**
Application No. 10/706,715 :
Filed: November 12, 2003 :
Attorney Docket No. 127.0005-00000 :

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) 272-2991.


Terri Johnson
Petitions Examiner
Office of Petitions



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HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA
SUITE 300
AKRON, OH 44313-1076

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FROM DIRECTORS OFFICE

NOV 17 2004

TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
Hein Vodinh : **TO MAKE SPECIAL**
Application No. 10/706,718 : **(APPLICANT'S AGE)**
Filed: November 11, 2003 :
For: LEAF RAKE COMBO KIT :

This is a decision on the petition submitted on November 11, 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 drivers license indicating Mr. Vodinh 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: 10/27/04



**K&L GATES LLP
535 SMITHFIELD STREET
PITTSBURGH PA 15222**

MAILED

MAY 22 2009

OFFICE OF PETITIONS

In re Application of	:	
MONTELLESE, Steve	:	
Application No. 10/706,720	:	DECISION ON PETITION
Filed: November 12, 2003	:	TO WITHDRAW
Attorney Docket No. 060806	:	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 17, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Mark G. Knedeisen on behalf of all attorneys of record who are associated with customer No. 26285. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Joe Smith at the address indicated below.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.


Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MR. STEVE MONTELLESE**
2661 CLEARVIEW ROAD
ALLISON PARK, PA 15101



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TAROLLI SUNDHEIM COVELL & TUMMINO LLP
526 SUPERIOR AVENUE, SUITE 1111
CLEVELAND, OH 44114

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JUN 09 2005

OFFICE OF PETITIONS

In re Application of :
Ian Robinson et al :
Application No. 10/706,723 : DECISION GRANTING PETITION
Filed: November 12, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NG(ST)-6757 :

This is a decision on the petition, filed June 2, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 15, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2819 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement..

Frances Hicks
Petitions Examiner
Office of Petitions
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).

10/706723

Examiner: LAUTURE, JOSEPH

GAU: 2819

Inventor: ROBINSON , IAN, et al

Classification: 341/143.000

Status: 94 - PUBLICATIONS -- ISSUE FEE PAYMENT RECEIVED

Title: DELTA-SIGMA DIGITAL-TO-ANALOG CONVERTER ASSEMBLY

Start Date: End Date:

bib_fee report (11 items sorted by nothing in no order)

Acct Date	Seq. Num.	Tran Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
11/18/2003	00000016	1	1001	\$770.00	11/12/2003	CK
11/18/2003	00000017	1	1202	\$162.00	11/12/2003	CK
11/18/2003	00000018	1	8021	\$40.00	11/12/2003	CK
02/13/2004	00000059	1	1051	\$130.00	02/11/2004	CK
02/13/2004	00000060	1	8021	\$40.00	02/11/2004	CK
11/16/2004	00000305	1	1504	\$300.00	11/15/2004	CK
11/16/2004	00000306	1	1501	\$1,370.00	11/15/2004	CK
06/03/2005	00000083	1	1464	\$130.00	06/02/2005	DA 200090
06/03/2005	00000084	1	1801	\$790.00	06/02/2005	DA 200090
06/06/2005	00000115	1	1464	\$130.00	06/02/2005	DA 200090
06/06/2005	00000116	1	1801	\$790.00	06/02/2005	DA 200090

} dup payments

06/02/2005 DEBIT 00000083 130.00 CR
 06/02/2005 DEBIT 00000084 790.00 CR
 06/06/2005 DEBIT 00000115 130.00 CR
 06/06/2005 DEBIT 00000116 790.00 CR



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GIFFORD, KRASS, GROH, SPRINKLE
ANDERSON & CITKOWSKI, PC
280 N OLD WOODWARD AVE
SUITE 400
BIRMINGHAM MI 48009

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JUL 13 2004

OFFICE OF PETITIONS

In re Application of :
Hilfinger et al. :
Application No. 10/706,738 : DECISION GRANTING PETITION
Filed: 12 November, 2003 :
Attorney Docket No. TSR-10002/38 :

This is a decision on the petition filed on 12 April, 2004, requesting that the above-identified application be accorded a filing date of 12 November, 2003.

On 12 November, 2003, the application was deposited.

On 16 June, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been assigned a filing date because the specification did not include at least one (1) claim. A two (2) month period for reply was set. The Notice stated that the filing date will be the date of receipt of the specification, including at least one claim. The Notice also stated that Pages 13-32 of the specification (description and claims) appeared to have been omitted from the application.

On 12 April, 2004, the present petition and a check for the requisite petition fee were filed. Petitioners have provided an itemized postcard receipt, and also argue that a complete application was filed on 12 November, 2003. Petitioner has provided a declaration by counsel's legal assistant, Janice R. Kuehn, stating that she counts all of the pages of applications before the applications are deposited with the USPTO.

The argument and evidence presented are not persuasive. Petitioners' declaration was made five months after the events in question and recites Ms. Kuehn's recall of the preparation and filing of the application with the USPTO. The application does not appear to be unusual and it is not understood why the filing

of this particular application would stand out in such detail in Ms. Kuehn's memory, particularly in view of the fact that Ms. Kuehn prepared and mailed similar papers to the PTO on a routine, daily basis.

The Office file is the official record of the papers originally filed in this application. Where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

A review of the record reveals that no pages 13-32 of specification and claims are located among the application papers received on 12 November, 2003. Additionally, petitioners may not rely on the return postcard with regards to the missing pages of claims, because the postcard reflects that the USPTO did *not* receive five (5) pages of claims. If a 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.¹ Therefore, petitioners' postcard receipt does not show receipt of five pages of claims in the USPTO on 12 November, 2003. However, as the postcard is not annotated with regard to the written description, petitioners may rely upon the postcard to show that Pages 13-27 of the written description were lost after receipt in the USPTO.

Nevertheless, petitioners state that the entire disclosure of the prior provisional application is "incorporated herein by reference." Petitioner requests that the application be accorded a filing date of 12 November, 2003, and that the petition fee be refunded. The petition is accompanied by, *inter alia*, 27 pages of written description, five (5) pages containing 25 claims, and one page of abstract, as well as a copy of the prior provisional application, which contained, *inter alia*, two (2) pages containing seven (7) claims. Furthermore, the petition states that a copy of the prior provisional application is included herewith.

¹MPEP 503.

A review of the official file reveals that the first page of specification, deposited on 12 November, 2003, states that this application claims priority of provisional application No. 60/425,379 "which is incorporated herein by reference." In view of the incorporation by reference of the provisional application contained in the specification, the Office may, on petition, accept a copy of the claims of the provisional application at a later date and accord this application a filing date of 12 November, 2003.

The petition is granted.

The application will be processed using Pages 14 to 27 of the specification supplied on 12 April, 2004, and the two pages containing Claims 1-7 from provisional Application No. 60/425,379. The other application papers filed on 12 April, 2004, will not be used for processing or examination, but will be retained in the application file.

The petition fee will not be refunded since special handling of this application was necessitated by the condition of the application as filed, wherein the application, as filed, did not include any claims.

The application is being forwarded to OIPE for further processing with a filing date of 12 November, 2003, using the application papers filed on that date, the copy of pages 14-27 of the specification supplied with the present petition, and the two (2) pages containing seven (7) claims from the prior provisional application supplied with the petition.

Telephone inquiries should be directed to the undersigned at 703-308-6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



GIFFORD, KRASS, GROH, SPRINKLE
ANDERSON & CITKOWSKI, PC
280 N OLD WOODWARD AVE
SUITE 400
BIRMINGHAM MI 48009

COPY MAILED

APR 10 2007

OFFICE OF PETITIONS

In re Application of :
Hilfinger et al. : CORRECTED
Application No. 10/706,738 : DECISION GRANTING PETITION
Filed: 12 November, 2003 :
Attorney Docket No. TSR-10002/38 :

This is a corrected decision on the petition filed on 12 April, 2004, requesting that the above-identified application be accorded a filing date of 12 November, 2003.

On 12 November, 2003, the application was deposited.

On 16 June, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been assigned a filing date because the specification did not include at least one (1) claim. A two (2) month period for reply was set. The Notice stated that the filing date will be the date of receipt of the specification, including at least one claim. The Notice also stated that Pages 13-32 of the specification (description and claims) appeared to have been omitted from the application.

On 12 April, 2004, the present petition and a check for the requisite petition fee were filed. Petitioners have provided an itemized postcard receipt, and also argue that a complete application was filed on 12 November, 2003. Petitioner has provided a declaration by counsel's legal assistant, Janice R. Kuehn, stating that she counts all of the pages of applications before the applications are deposited with the USPTO.

The argument and evidence presented are not persuasive. Petitioners' declaration was made five months after the events in question and recites Ms. Kuehn's recall of the preparation and filing of the application with the USPTO. The application does not appear to be unusual and it is not understood why the filing

of this particular application would stand out in such detail in Ms. Kuehn's memory, particularly in view of the fact that Ms. Kuehn prepared and mailed similar papers to the PTO on a routine, daily basis.

The Office file is the official record of the papers originally filed in this application. Where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

A review of the record reveals that no pages 13-32 of specification and claims are located among the application papers received on 12 November, 2003. Additionally, petitioners may not rely on the return postcard with regards to the missing pages of claims, because the postcard reflects that the USPTO did *not* receive five (5) pages of claims. If a 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.¹ Therefore, petitioners' postcard receipt does not show receipt of five pages of claims in the USPTO on 12 November, 2003. However, as the postcard is not annotated with regard to the written description, petitioners may rely upon the postcard to show that Pages 13-27 of the written description were lost after receipt in the USPTO.

Nevertheless, petitioners state that the entire disclosure of the prior provisional application is "incorporated herein by reference." Petitioner requests that the application be accorded a filing date of 12 November, 2003, and that the petition fee be refunded. The petition is accompanied by, *inter alia*, 27 pages of written description, five (5) pages containing 25 claims, and one page of abstract, as well as a copy of the prior provisional application, which contained, *inter alia*, two (2) pages containing seven (7) claims. Furthermore, the petition states that a copy of the prior provisional application is included herewith.

¹MPEP 503.

A review of the official file reveals that the first page of specification, deposited on 12 November, 2003, states that this application claims priority of provisional application No. 60/425,379 "which is incorporated herein by reference." In view of the incorporation by reference of the provisional application contained in the specification, the Office may, on petition, accept a copy of the claims of the provisional application at a later date and accord this application a filing date of 12 November, 2003.

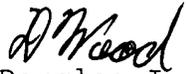
The petition is granted.

The application will be processed using Pages 13 to 27 of the specification supplied on 12 April, 2004, and the two pages containing Claims 1-7 from provisional Application No. 60/425,379. The other application papers filed on 12 April, 2004, will not be used for processing or examination, but will be retained in the application file.

The petition fee will not be refunded since special handling of this application was necessitated by the condition of the application as filed, wherein the application, as filed, did not include any claims.

The application is being forwarded to OIPE for further processing with a filing date of 12 November, 2003, using the application papers filed on that date, the copy of pages 13-27 of the specification supplied with the present petition, and the two (2) pages containing seven (7) claims from the prior provisional application supplied with the petition.

Telephone inquiries should be directed to the undersigned at 571-272-3231.


Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

JH



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Dtw 61-07

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ANDERSON & CITKOWSKI, PC
280 N OLD WOODWARD AVE
SUITE 400
BIRMINGHAM MI 48009

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APR 10 2007

OFFICE OF PETITIONS

In re Application of :
Hilfinger et al. : CORRECTED
Application No. 10/706,738 : DECISION GRANTING PETITION
Filed: 12 November, 2003 :
Attorney Docket No. TSR-10002/38 :

This is a corrected decision on the petition filed on 12 April, 2004, requesting that the above-identified application be accorded a filing date of 12 November, 2003.

On 12 November, 2003, the application was deposited.

On 16 June, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been assigned a filing date because the specification did not include at least one (1) claim. A two (2)-month period for reply was set. The Notice stated that the filing date will be the date of receipt of the specification, including at least one claim. The Notice also stated that Pages 13-32 of the specification (description and claims) appeared to have been omitted from the application.

On 12 April, 2004, the present petition and a check for the requisite petition fee were filed. Petitioners have provided an itemized postcard receipt, and also argue that a complete application was filed on 12 November, 2003. Petitioner has provided a declaration by counsel's legal assistant, Janice R. Kuehn, stating that she counts all of the pages of applications before the applications are deposited with the USPTO.

The argument and evidence presented are not persuasive. Petitioners' declaration was made five months after the events in question and recites Ms. Kuehn's recall of the preparation and filing of the application with the USPTO. The application does not appear to be unusual and it is not understood why the filing

of this particular application would stand out in such detail in Ms. Kuehn's memory, particularly in view of the fact that Ms. Kuehn prepared and mailed similar papers to the PTO on a routine, daily basis.

The Office file is the official record of the papers originally filed in this application. Where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

A review of the record reveals that no pages 13-32 of specification and claims are located among the application papers received on 12 November, 2003. Additionally, petitioners may not rely on the return postcard with regards to the missing pages of claims, because the postcard reflects that the USPTO did not receive five (5) pages of claims. If a 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.¹ Therefore, petitioners' postcard receipt does not show receipt of five pages of claims in the USPTO on 12 November, 2003. However, as the postcard is not annotated with regard to the written description, petitioners may rely upon the postcard to show that Pages 13-27 of the written description were lost after receipt in the USPTO.

Nevertheless, petitioners state that the entire disclosure of the prior provisional application is "incorporated herein by reference." Petitioner requests that the application be accorded a filing date of 12 November, 2003, and that the petition fee be refunded. The petition is accompanied by, *inter alia*, 27 pages of written description, five (5) pages containing 25 claims, and one page of abstract, as well as a copy of the prior provisional application, which contained, *inter alia*, two (2) pages containing seven (7) claims. Furthermore, the petition states that a copy of the prior provisional application is included herewith.

¹MPEP 503.

A review of the official file reveals that the first page of specification, deposited on 12 November, 2003, states that this application claims priority of provisional application No. 60/425,379 "which is incorporated herein by reference." In view of the incorporation by reference of the provisional application contained in the specification, the Office may, on petition, accept a copy of the claims of the provisional application at a later date and accord this application a filing date of 12 November, 2003.

The petition is granted.

The application will be processed using Pages 13 to 27 of the specification supplied on 12 April, 2004, and the two pages containing Claims 1-7 from provisional Application No. 60/425,379. The other application papers filed on 12 April, 2004, will not be used for processing or examination, but will be retained in the application file.

The petition fee will not be refunded since special handling of this application was necessitated by the condition of the application as filed, wherein the application, as filed, did not include any claims.

The application is being forwarded to OIPE for further processing with a filing date of 12 November, 2003, using the application papers filed on that date, the copy of pages 13-27 of the specification supplied with the present petition, and the two (2) pages containing seven (7) claims from the prior provisional application supplied with the petition.

Telephone inquiries should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO, IL 60606

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AUG 16 2004

OFFICE OF PETITIONS

In re Application of	:	
Ashoke SenGupta, Jerald Darlington,	:	
Jennifer Gould and Ilona Lin	:	DECISION REFUSING STATUS
Application No. 10/706,752	:	UNDER 37 C.F.R. § 1.47(a)
Filed: November 12, 2003	:	
Attorney Docket No. 27696/38920A	:	
Title: NONVISCOUS AQUEOUS	:	
DISPERSION COMPOSITIONS OF	:	
WATER-SWELLABLE LAYERED SILICATES	:	
AND THE METHOD OF PRODUCING THE	:	
SAME	:	

This is a decision on the "PETITION UNDER RULE 37 C.F.R. § 1.47(a)," filed July 15, 2004.

The petition is **DISMISSED**.

Rule 47 applicants are given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.

Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on November 12, 2003, without an executed oath or declaration. The application included an application data sheet, identifying Ashoke SenGupta, Jerald Darlington, Jennifer Gould and Ilona Lin as joint inventors. Accordingly, on February 11, 2004, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring *inter alia* submission of an executed oath or declaration and payment of the surcharge for late filing under § 1.16(e). This Notice set a two month period for reply, with extensions of time obtainable under § 1.136(a).

In response, rule 47 applicants filed the instant petition, along with payment of the petition fee, and late surcharge. To make this reply timely, the petition included a petition (and fee) for

extension of time for response within the third month. Applicants request acceptance of a declaration executed by inventors SenGupta, Darlington and Lin on behalf of themselves and on behalf of non-signing inventor Gould.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (1).

In support of the instant petition, applicants submit the declaration of Jerald Darlington. Mr. Darlington states that he sent Ms. Gould the declaration documents for signature by e-mail on May 6, 2004; May 19, 2004 and May 28, 2004. However, as of the date of the mailing of this petition, no response has been received. It is asserted that inventor Gould's failure to respond to the e-mails constitutes a refusal to sign a declaration of the patent application, or that she cannot be found after diligent efforts to obtain her signature. The petition does not include a showing that inventor Gould received and reviewed the papers transmitted by e-mail.

Applicants' proof has been considered, but not found adequate to show either that non-signing inventor Gould, by her conduct in not responding to the e-mails, has refused to join in the application, or that she cannot be found or reached after diligent effort.

According to the application data sheet submitted on filing, inventor Gould's last known address appears to be in Lake in the Hills, Illinois. The petition fails to show that any attempt was made to find or reach inventor Gould by forwarding the application papers to her at that U.S. address. If it is the case that inventor Gould is no longer at that address, the petition fails to set forth efforts to determine a current mailing address and forward the application papers there. In light of these alternative means for finding or reaching inventor Gould, it cannot be concluded that applicants' efforts were diligent when no further effort was taken after applicants were unsuccessful in reaching her by e-mail.

Nor can it be concluded on the evidence presented that inventor Gould refuses to join in the application. The evidence does not show that the e-mail communications reached inventor Gould. Thus, inventor Gould may not have had the opportunity to respond. It cannot be inferred that inventor Gould's failure to respond constitutes a refusal to join in the application. (Even if the e-mail attempts to reach inventor Gould were shown to have been successful, the declaration of Mr. Darlington is not clear as to whether the communication sent by e-mail included all of the application papers, and not just the declaration and assignment. Petitioner is advised that before a refusal can be alleged, applicants must show that a *bona fide* attempt was made to present all of the application papers to the non-signing inventor).

Rule 47 applicants are also advised that the fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. See MPEP 409.03(d).

As to requirements (2) and (4), it is noted that an application data sheet containing the residence and/or mailing addresses of all of the inventors was filed on November 12, 2003.

On renewed petition, applicants must submit adequate proof of the unavailability of inventor Gould, within the meaning of § 1.47.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 ATTN: NANCY JOHNSON
 SENIOR PETITIONS ATTORNEY

By hand: Effective June 5, 2004, patent correspondence delivered by hand or delivery services, other than the USPS, to the Customer Window must be addressed as follows:

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop
Crystal Plaza Two, Lobby, Room TB03
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309 (or effective September 28, 2004 at (571) 272-3219).



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



Paper No.

MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO, IL 60606

COPY MAILED

DEC 29 2004

OFFICE OF PETITIONS

In re Application of	:	
Ashoke SenGupta, Jerald Darlington,	:	
Jennifer Gould and Ilona Lin	:	DECISION NOTING
Application No. 10/706,752	:	JOINDER OF INVENTOR
Filed: November 12, 2003	:	AND
Attorney Docket No. 27696/38920A	:	PETITION UNDER
Title: NONVISCOUS AQUEOUS	:	37 C.F.R. § 1.47(a) MOOT
DISPERSION COMPOSITIONS OF	:	
WATER-SWELLABLE LAYERED SILICATES	:	
AND THE METHOD OF PRODUCING THE	:	
SAME	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION UNDER RULE 37 C.F.R. §1.47(a)," filed November 12, 2004.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on November 12, 2003, without an executed oath or declaration. In response to a "Notice to File Missing Parts of Nonprovisional Application" mailed February 11, 2004, on July 15, 2004, applicants filed the initial petition, with a declaration executed by inventors SenGupta, Darlington and Lin on behalf of themselves and on behalf of non-signing inventor Gould. However, by decision mailed August 16, 2004, the petition was dismissed for failure to submit adequate proof of the unavailability of inventor Gould, within the meaning of § 1.47. This decision set a two-month time limit for reply, with extensions of time obtainable under § 1.136(a).

On instant renewed petition, applicants have submitted a declaration executed by previously non-signing inventor Gould. This response was made timely by an accompanying petition for extension of time for response within the first month (and fee).

The declaration has been reviewed and found in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a)

status and no such status should appear on the file wrapper.
This application need not be returned to this Office for further
consideration under 37 CFR 1.47(a).

The application will be examined in Technology Center AU 1714 in
due course.

Telephone inquiries regarding this decision should be directed to
the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with a large initial "N" and a long, sweeping underline.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05-18-06

TO SPE OF : ART UNIT 3763

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/706766** Patent No.: **7014658**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.



Certificates of Correction Branch

703-308-9390 ext. 103

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- | | |
|---|---|
| <input checked="" type="checkbox"/> Approved | All changes apply. |
| <input type="checkbox"/> Approved in Part | Specify below which changes do not apply. |
| <input type="checkbox"/> Denied | State the reasons for denial below. |

Comments: _____

Cmn

3738

SPE

Art Unit



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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202-3789

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JUL 15 2004

OFFICE OF PETITIONS

In re Application of:	:	
Bennett et al.	:	
Application No. 10/706,784	:	DECISION DISMISSING
Filed: November 12, 2003	:	PETITION UNDER
Title of Invention: COLLAPSIBLE	:	37 CFR 1.47(a)
FLEXIBLE PIPE AND METHOD OF	:	
MANUFACTURING SAME	:	

This is in response to the Petition Under 37 CFR 1.47(a), to allow the other inventor to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is dismissed.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor, AND BE ADDRESSED TO petitions Attorney Derek L. Woods. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 12, 2003, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on December 19, 2003, requiring *inter alia*, a properly signed oath or declaration.

In response to the Notice, Applicant files the instant petition wherein Applicant avers that the nonsigning inventor, refuses to sign. Declaration by Inventor at p.1. In support of this assertion, a Statement of Facts in Support of Filing on Behalf of Non-signing Inventor (37 CFR 1.47) and Affidavit of Simon Ellis is filed wherein Mr. Ellis avers that he has made several attempts to reach the nonsigning inventor by telephone with no

success, and that the telephone number is no longer in service. Mr. Ellis further avers that the address of record with the nonsigning inventor's former employer is no longer valid, and that the nonsigning inventor has moved and left no forwarding address.

Applicable Law

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), if an inventor is unavailable (cannot be reached), while it is not required that the application be mailed¹, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. (Emphasis supplied). See, MPEP § 409.03(d). At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

¹It is noted that Applicant asserts that the nonsigning inventor refuses to sign, while also asserting that the nonsigning inventor cannot be found or reached. Applicant is advised that 37 CFR 1.47(a) provides for two situations that allow inventors to proceed with the application on their own behalf and on behalf of a nonsigning inventor: one, as here, where an inventor cannot be found or reached after diligent effort, the other where an inventor refuses to join in an application after having been presented with the application. For future references, Applicant is advised that, where it is alleged that an inventor refuses to join in an application, before refusal can be alleged, the entire application must be sent to the nonsigning inventor. "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." See MPEP 409.03

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

By hand: 2201 South Clark Place
 Customer Window
 Crystal Plaza Two, Lobby Room 1B03
 Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.


Derek L. Woods
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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KLARQUIST SPARKMAN, LLP
16th FLOOR WORLD TRADE CENTER
121 W, SALMON STREET
PORTLAND, OR 97204

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FEB 17 2005

OFFICE OF PETITIONS

In re Application of: :
Bennett et al. :
Application No. 10/706,784 : DECISION NOTING
Filed: November 12, 2003 : JOINDER OF INVENTOR
Title of Invention: COLLAPSIBLE :
FLEXIBLE PIPE AND METHOD OF :
MANUFACTURING SAME :

This is in response to the Request for Reconsideration Petition, under 37 CFR 1.47(a), filed February 15, 2005, noting the joinder of the inventor.

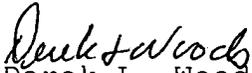
In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the Reconsideration of Petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Declaration has been entered and made of record.

It is also noted that a Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed November 29, 2004 and indicating that the oath or declaration was missing from the above-identified application, was, in view of the filing of the petition under 37 CFR 1.47(a), issued in error. The Notice is hereby withdrawn.

This application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney/Advisor
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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DHW 08-04

DIANE DUNN MCKAY, ESQ.
MATHEWS, COLLINS, SHEPHERD & MCKAY, P.A.
SUITE 306
100 THANET CIRCLE
PRINCETON NJ 08540

COPY MAILED

AUG 24 2004

OFFICE OF PETITIONS

In re Application of :
Leonard and Taylor :
Application No. 10/706,792 : DECISION REFUSING STATUS
Filed: 12 November, 2003 : UNDER 37 CFR 1.47(a)
Atty. Docket No. 4774-111 US :

This is in response to the petition filed under 37 CFR 1.47(a) on 22 July, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.

FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.
Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 12 November, 2003, without an executed oath or declaration. Accordingly, on 23 February, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing as well as replacement drawings in compliance with 37 CFR 1.84 and 1.121.

In response, on 22 July, 2004, the present petition and petition fee were filed, along with a three (3) month extension of time and the late filing surcharge. A declaration naming Todd F. Leonard and Maurice R. Taylor as joint inventors and signed by joint inventor Taylor on behalf of himself and on behalf of joint inventor Taylor was also filed.

Petitioners' counsel asserts that a copy of the declaration was sent to the non-signing inventor, but that the non-signing inventor has refused to sign it.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of \$130 or \$65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

In regards to item (1), petitioners have not provided proof that Leonard was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).¹ The letter sent to joint inventor Leonard on 19 April, 2004, states only that a copy of the declaration is enclosed. However, in order for a Rule 47 petition to be granted, the inventor **must** be afforded an opportunity to review the application.² Therefore, petitioners should sent a copy of the application papers to Leonard's last known address. Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application

¹MPEP 409.03(d).

²See In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). The application papers must be sent or given to the non-signing inventor unless he or she refuses to accept delivery of the papers.

was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
 220 20th Street S.
 Customer Window, Mail Stop Petitions
 Crystal Plaza 2, Lobby, Room 1B03
 Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
Dtw 12-04

DIANE DUNN MCKAY, ESQ.
MATHEWS, COLLINS, SHEPHERD & MCKAY, P.A.
SUITE 306
100 THANET CIRCLE
PRINCETON NJ 08540

COPY MAILED

DEC 13 2004

OFFICE OF PETITIONS

In re Application of :
Leonard and Taylor :
Application No. 10/706,792 : DECISION ACCORDING STATUS
Filed: 12 November, 2003 : UNDER 37 CFR 1.47(a)
Atty. Docket No. 4774-111 US :

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 21 October, 2004.

The petition is **GRANTED**.

The above-identified application was filed on 12 November, 2003, without an executed oath or declaration. Accordingly, on 23 February, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing as well as replacement drawings in compliance with 37 CFR 1.84 and 1.121. The petition filed on 22 July, 2004, was dismissed on 24 August, 2004.

Petitioners have shown that a copy of the application papers was sent to the last known address of the non-signing inventor, Todd Leonard. The non-signing inventor, however, has failed to sign and return the declaration naming him as a joint inventor along with Maurice R. Taylor.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The \$130.00 fee paid with the present request for reconsideration is unnecessary and will be credited to counsel's deposit account, No. 13-2165.

After this decision is mailed, the application will be referred to Technology Center Art Unit 3763 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 21 2004

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

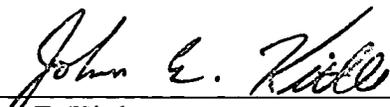
In re Application of :
Kelly W. Adams :
Serial No.: 10/706,794 : DECISION ON PETITION
Filed: November 12, 2003 :
For: Apparatus and Method for Coloring Skin:

This is in response to the petition applicant filed on November 12, 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, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.



John E. Kittle
Director
Technology Center 3700/2900



FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

FEB 04 2010

OFFICE OF PETITIONS

In re Application :
Andrei Ghetie et al. :
Application No. 10/706,796 : DECISION ON APPLICATION
Filed: November 12, 2003 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 088245-7215 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed October 26, 2009. Applicant requests that the determination of patent term adjustment be corrected from 1,176 days to 1,524 days. Applicant requests this correction in part 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).

Patentees request that the decision on this request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in Wyeth v. Dudas. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the of the patent term adjustment concerning those regulations until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.¹

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). The \$200.00 fee has been charged to the credit card provided.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

¹ For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

HOWSON AND HOWSON
ONE SPRING HOUSE CORPORATION CENTER
BOX 457
321 NORRISTOWN ROAD
SPRING HOUSE, PA 19477

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NOV 23 2004

OFFICE OF PETITIONS

In re Application of :
Hofmeister, et al. :
Application No. 10/706,803 : NOTICE
Filed: November 12, 2003 :
Attorney Docket No. SUC4USA :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed November 8, 2004.

As set forth at 37 CFR 1.28(c), 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 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 (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions



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OPTICUS IP
7791 ALISTER MACKENZIE DR
SARASOTA FL 34240

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JUL 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Vig, et al.	:	
Application No. 10/706,815	:	ON PETITION
Filed: November 12, 2003	:	
Attorney Docket No. 029-03US1	:	
For: OPTICAL PULSE CALIBRATION		
FOR QUANTUM KEY DISTRIBUTION		

This is a decision on the petition under 37 CFR 1.181, filed June 16, 2006 (certificate of mailing date June 13, 2006) to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit the issue fee and publication fee in response to the January 20, 2006 Notice of Allowance and Fee(s) Due, which set a three month non-extendable period for reply. No reply being received, the Office contended that this application became abandoned on April 21, 2006. A Notice of Abandonment was mailed on June 8, 2006.

Petitioners allege that the January 20, 2006 Notice was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

Petitioners have submitted a copy of the docket record where the requirement would have been entered had the January 20, 2006 Notice been received. In addition, practitioner referenced the

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

docket record in the petition and stated that a review of the file jacket for the January 20, 2006 Notice was fruitless.

Petitioners have established non-receipt. The petition is **granted**, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to Technology Center AU 2136 for the re-mailing of the January 20, 2006 Notice of Allowance and Fee(s) Due and Notice of Allowability with a new period set for reply.

Telephone inquiries 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

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

02/27/04

Shaun P. Montana
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618

Dear Applicant:

The Box PGPub replacement drawings for application number 10/706833 received on 01/15/04 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.

A handwritten signature in cursive script that reads "Kaletus King".

Signature of Reviewer, Office of Pre-Grant Publication



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WILMER CUTLER PICKERING HALE AND DORR
399 PARK AVENUE
NEW YORK NY 10022

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JUN 08 2005

OFFICE OF PETITIONS

In re Application of :
Ewa Herbst :
Application No. 10/706,844 : DECISION GRANTING PETITION
Filed: November 12, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 286932.126 US3 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Corrected Application Papers mailed April 19, 2004, which set a period for reply of two (2) 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 20, 2004.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, the request for an extension of time is unnecessary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination for preexamination processing.

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
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/706,844	11/12/2003	Ewa Herbst	286932.126 US3

CONFIRMATION NO.

6086

WILMER CUTLER PICKERING HALE AND DORR LLP
399 PARK AVENUE
NEW YORK NY 10022

Date Mailed: September 7, 2005

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.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

- The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.
- The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
- The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at <http://www.uspto.gov/patft/index.html>.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Deonam
Office of Patent Publication
Pre-Grant Publication Division



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COMMISSIONER FOR PATENTS
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FROM DIRECTORS OFFICE**

DEC 03 2004

TECHNOLOGY CENTER 3600

McCrystle & Associates
P.O. Box 848
Belmont, CA 94002

In re application of:

Matthew Telles

Application No. 10/706,853

Filed: November 11, 2003

For: OBJECT HANGER

: DECISION ON REQUEST
: FOR WITHDRAWAL OF
: ATTORNEY

This is a decision on the request filed on June 10, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and
- C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), the reason "transfer to new patent counsel", is not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Furthermore, the correspondence address listed in the withdrawal request is the current correspondence address. If new counsel's correspondence address were provided, the deficiency noted above would not be overcome. However, since a new correspondence address was not provided further doubt is cast on whether or not the client was aware of the transfer.



Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/vdb: 11/17/04



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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HAMILTON, BROOK, SMITH
& REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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JUN 15 2007

OFFICE OF PETITIONS

In re Application of	:	
LeNoir E. ZAISER, et al	:	
Application No. 10/706,872	:	DECISION ON PETITION
Filed: November 12, 2003	:	TO WITHDRAW
Attorney Docket No. 2173.2005-001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 6, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Hamilton, Brook, Smith & Reynolds, P.C. has been revoked by the assignee of the patent application on February 17, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address unless notified by applicant.

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: RODNEY D. JOHNSON, ESQ.
R.D. JOHNSON & ASSOCIATES, P.C.
70 WALNUT STREET
WELLESLEY HILL, MA 02481



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P.O. Box 1450
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R.D. JOHNSON & ASSOCIATES, P.C.
20 PICKERING STREET
P.O. BOX 920353
NEEDHAM, MA 02492

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MAR 29 2010

OFFICE OF PETITIONS

In re Application of :
Zaiser et al. :
Application No. 10/706,872 : DECISION ON PETITION
Filed: November 12, 2003 :
Attorney Docket No. 2173.2005-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 6, 2010, as required by the Notice of Allowance and Fee(s) Due mailed July October 6, 2009. Accordingly, the application became abandoned on January 7, 2010.

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.

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



MOSER IP LAW GROUP/APPLIED
MATERIALS, INC.
1040 BROAD STREET
2ND FLOOR
SHREWSBURY NJ 07702

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JUL 13 2007

OFFICE OF PETITIONS

In re Application of :
Hee Yeop Chae et al :
Application No. 10/706,902 : ON PETITION
Filed: November 12, 2003 :
Attorney Docket No. AMAT/8501/ETCH/DRIE/JB :

This is a decision on the petition, filed July 13, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 15, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1765 will consider the request for continued examination under 37 CFR 1.114.


Karen Creasy
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



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OFFICE OF PETITIONS

Squire, Sanders & Dempsey L.L.P
Patent Department
One Maritime Plaza, Suite 300
San Francisco, CA 94111-3492

In re Application of	:	
You-Sung Chang et al.	:	
Application No. 10/706,903	:	DECISION ON PETITION
Filed: November 12, 2003	:	TO WITHDRAW
Attorney Docket No. 56030.00027	:	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 20, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Cameron K. Kerrigan on behalf of all attorneys of record. who are. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **You-Sung Chang**
CHIPS Building, Third Floor, KAIST,
373-1 Kusung-Dong, Yusong-Gu
Taejon, 305-701
Korea

cc: **Gapseong Noh**
Paion Company, Limited
#204, Byucksan Digital Valley I, 212-16
Guro-dong, Furo-gu
Seoul, 152-050
Korea


UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
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 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/706,903	11/12/2003	You-Sung Chang	56030.00027

CONFIRMATION NO. 7766

30256
 SQUIRE, SANDERS & DEMPSEY L.L.P
 PATENT DEPARTMENT
 ONE MARITIME PLAZA, SUITE 300
 SAN FRANCISCO, CA 94111-3492



Date Mailed: 09/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/20/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
 FORMER ATTORNEY/AGENT COPY



ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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OCT 19 2006

OFFICE OF PETITIONS

In re Application of :
Easton L. Manderson : **DECISION ON PETITION**
Application No. 10/706,922 :
Filed: 11/14/2003 :
Attorney Docket No. 3023-005A :

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2006, to revive the above-identified application.

This application became abandoned for failure to submit corrected drawings as required by the Notice of Allowability mailed on December 1, 2005, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on March 2, 2006. A Notice of Abandonment was mailed on April 10, 2006.

The Draftsperson approved the drawings filed on May 5, 2006, as stated in the Notice of Draftsperson's Patent Drawing Review. A copy of the Notice accompanies this decision.

Petitioner has met the requirements under 37 CFR 1.137(b). Accordingly, the petition is **granted**.

This matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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480 - THE STATION
601 WEST CORDOVA STREET
VANCOUVER BC V6B 1G1 CA CANADA

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FEB 24 2005

OFFICE OF PETITIONS

In re Patent No. 6,835,070
Issued: December 28, 2004
Application No. 10/706,924
Filed: November 14, 2003
Patentee: Randall Allan Law

:
:
:
:
:

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 Office of Petitions Staff at (571) 272-3201.

This file is being returned to the Files Repository.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of :
Kazutaka HATTORI et al. :
Application No. 10/706929 :
Filed: November 14, 2003 :
Attorney Docket No. 117151 :
: DECISION ON REQUEST TO
: PARTICIPATE IN PATENT
: PROSECUTION HIGHWAY
: PILOT PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 6, 2006, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

- (1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
- (2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
- (3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
- (4) Examination of the U.S. application has not begun;
- (5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
- (6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
- (7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition fail to include:

Where ALL the claims submitted in the US application are essentially the same as those allowed by the Japanese Patent Office. The originally filed claims and those filed in the preliminary amendment include method claims- Claims 25-48.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Kathryn Gorgos at 571 273-1012.

Telephone inquiries concerning this decision should be directed to Kathryn Gorgos at 571 272-1012.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at <http://www.uspto.gov/ebc/index.html>.

Kathryn Gorgos
TC 1700 TQAS



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Alexandria, VA 22320

FEB 20 2007

In re Application of :
Kazutaka HATTORI : DECISION ON REQUEST TO
Application No. 10/706929 : PARTICIPATE IN PATENT
Filed: November 14, 2003 : PROSECUTION HIGHWAY
Attorney Docket No. 117151 : PILOT PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 6, 2006 and the preliminary amendment filed February 9, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

- (1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
- (2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
- (3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
- (4) Examination of the U.S. application has not begun;
- (5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
- (6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
- (7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kathryn Gorgos at 571 272-1012.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at <http://www.uspto.gov/ebc/index.html>.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

A handwritten signature in black ink, appearing to read 'Kathryn Gorgos', with a long, sweeping flourish extending to the right.

Kathryn Gorgos
TQAS TC 1700



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TECHNOLOGY CENTER 3600

Paul A. Guss
775 S. 23rd St., First Floor Suite 2
Arlington, VA 22202

In re Application of	:	
Yoshihiro Fukano et al	:	DECISION ON PETITION
Application No. 10/706,945	:	TO INVOKE SUPERVISORY
Filed: November 14, 2003	:	AUTHORITY
Attorney Docket No.: CS-31-031114	:	UNDER 37 CFR 1.181
For: TUBE JOINT	:	

This is in response to applicants' petition to invoke supervisory authority under 37 CFR 1.181 filed July 3, 2006 requesting that the Notice of Allowance for the allowance counted May 16, 2005 be mailed.

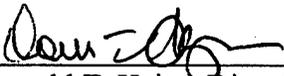
The petition is **DISMISSED AS MOOT**.

A review of the file reveals that the allowance action in question was actually mailed by the Office on March 8, 2007 and that the instant application will issue as USP 7,240,925 on July 10, 2007.

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702.

In view of the above, applicants' petition is moot and is hereby dismissed.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Daniel P. Stodola at (571) 272-7087.



 Donald T. Hajec, Director
 Technology Center 3600
 (571) 272-5150
 Facsimile No.: (571) 273-8300

SNM/DS: 6/29/07





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WILSONART INTERNATIONAL, INC.
C/O WELSH & FLAXMAN, LLC
2000 DUKE STREET, SUITE 100
ALEXANDRIA, VA 22314

Mail Date: 04/26/2010

Applicant	: Thomas J. Nelson	: DECISION ON REQUEST FOR
Patent Number	: 7614197	: RECALCULATION OF PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/706,947	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/14/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1216** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005-1202

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OFFICE OF PETITIONS

In re Patent No. 7,176,614

Issue Date: February 13, 2007

Application No. 10/706,984

Filed: November 14, 2003

Attorney Docket No. P56908

ON PETITION

This is a decision on the petition filed May 27, 2007, 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 **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 will be directed to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

¹ See *Official Gazette* of June 22, 2004.



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AUSTIN, TX 78759

In re Application of	:	
ZRUBEK, et al.	:	
Application No. 10/707,017	:	DECISION ON PETITION
Filed: November 14, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 800725	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 23, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 24, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of \$750; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center Art Unit 2168 for consideration of the amendment filed April 27, 2007.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions



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C/O FLETCHER YODER
P O BOX 692289
HOUSTON, TX 77269-2289

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In re Application of :
Qi Zhao et al :
Application No. 10/707,031 : DECISION GRANTING PETITION
Filed: November 17, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 134666-1 :

This is a decision on the petition, filed February 15, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 17, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2882 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.


Frances Hicks
Petitions Examiner
Office of Petitions

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¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



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**DICKINSON WRIGHT PLLC
38525 WOODWARD AVENUE
SUITE 2000
BLOOMFIELD HILLS, MI 48304**

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OFFICE OF PETITIONS

In re Application of :
Jackson et al. :
Application No. 10/707,036 : **DECISION ON PETITION**
Filed: November 17, 2003 :
Attorney Docket No. FGT 1854 PA :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3616 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions



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INTELLECTUAL PROPERTY LAW
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ESSEX JUNCTION VT 05452

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In re Application of :
Hazelzet et al. :
Application No. 10/707,053 : **DECISION ON PETITION**
Filed: November 18, 2003 :
Attorney Docket No. BUR920020085US1 :

This is a decision on the petition, filed July 27, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181.

This application was held abandoned for failure to reply to the final Office action mailed August 16, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 1, 2007.

Petitioner asserts that the Office action dated August 1, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy item (1) of the above-stated requirements. Petitioner has failed to describe the system used for recording Office actions received and establish that the docketing system was sufficiently reliable.

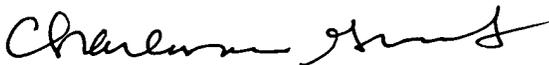
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By facsimile: **(571) 273-8300**
 Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.



Charlema Grant
Petitions Attorney
Office of Petitions



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In re Application of :
Hazelzet et al. :
Application No. 10/707,053 : DECISION ON PETITION
Filed: November 18, 2003 :
Attorney Docket No. BUR920020085US1 :

This is a decision on the renewed petition, filed August 8, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed August 16, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 1, 2007.

Petitioner asserts that the Office action dated August 1, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and
3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner

should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

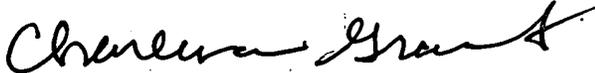
See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

In light of receipt of the RCE and amendment filed on July 27, 2007 the final Office action does not need to be re-mailed.

This application is being referred to Technology Center AU 2827 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.



Charlema Grant
Petitions Attorney
Office of Petitions



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ESSEX JUNCTION, VT 05452

Mail Date: 04/20/2010

Applicant : Bruce G. Hazelzet : DECISION ON REQUEST FOR
Patent Number : 7646649 : RECALCULATION of PATENT
Issue Date : 01/12/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/707,053 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/18/2003 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **938** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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LOCKE LIDDELL & SAPP LLP
ATTN. DOCKETING
600 TRAVIS #3400
HOUSTON, TX 77002

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In re Application of :
Gary A. Reichle et al :
Application No. 10/707,057 : DECISION GRANTING PETITION
Filed: November 18, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. :
11564.0070.NPUS01 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before November 10, 2005, as required by the Notice of Allowance and Fee(s) Due mailed August 10, 2005. A Notice of Abandonment was mailed on December 30, 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 the \$1,400 issue fee (the \$300 publication fee was previously timely filed on September 30, 2005); (2) the petition fee of \$1,500; 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) 272-3218.

The application file is being referred to Publishing Division.


Frances Hicks
Petitions Examiner
Office of Petitions



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Portsmouth, NH 03801

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In re application of
Richard S. Norek
Application No. 10/707,060
Filed: November 18, 2003
For: WAVELESS HULL

: DECISION ON PETITION
: TO MAKE SPECIAL
: (APPLICANT'S AGE)
:

This is a decision on the petition submitted on January 26, 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 statement signed by Richard S. Norek 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/vdb: 5/13/04



UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Ching-Sung Yang, et al. :
Application No. 10/707,080 :
Filed: November 20, 2003 :
Attorney Docket No. EMEP0029USA :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 22 2004, to revive the above-identified application.

The petition is **GRANTED**.

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
Office of the Deputy Commissioner
for Patent Examination Policy



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JUN 29 2004

TECHNOLOGY CENTER 2100

NAIPO (North America International
Patent Office)
P.O. Box 506
Merrifield, VA 22116

In re Application of:
Pao-Ching TSENG, et al.
Application No. 10/707,107
Filed: November 20, 2003
For: MICROCONTROLLERWITH
EXPANDABLE PROGRAM MEMORY
BANKS

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY
OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 18, 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, Mord Michael Lewis, 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.



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750



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JUL 26 2005

TECHNOLOGY CENTER 3600

RALPH D. CHABOT
2310 E. PONDEROSA DR
SUITE 4
CAMARILLO, CA 93010

In re application of : **DECISION ON PETITION**
Renata Chabot : **TO MAKE SPECIAL**
Application No. 10/707,148 : **(ACCELERATED**
Filed: November 24, 2003 : **EXAMINATION)**
For: METHOD FOR LIMITING THE MOVEMENT
OF AN INFANT IN A PARTICULAR
DIRECTION

This is in response to the petition filed on January 21, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirements (B) and (E) above. Regarding item (B), the petition fails to include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required. Regarding item (E) the petition does not include a discussion in detail of how the claimed invention patentably defines over the cited references.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.



Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dcg: 6/17/05



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RALPH D. CHABOT
2310 E PONDEROSA DR
SUITE 4,
CAMARILLO, CA 93010

MAILED
FROM DIRECTORS OFFICE

NOV 03 2005

TECHNOLOGY CENTER 3800

In re application of : **DECISION ON PETITION**
Renata Chabot : **TO MAKE SPECIAL**
Application No. 10/707,148 : **(ACCELERATED**
Filed: November 24, 2003 : **EXAMINATION)**
For: METHOD FOR LIMITING THE MOVEMENT
OF AN INFANT IN A PARTICULAR
DIRECTION

This is in response to the renewed petition filed on September 22, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt **bona fide** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Handwritten signature of Randolph A. Reese in cursive script, followed by the word "for" in a smaller, simpler font.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dcg: 10/11/05



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NOVAK DRUCE & QUIGG LLP
1300 EYE STREET NW
400 EAST TOWER
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Lundstrom, et al. :
Application No. 10/707,185 : ON PETITION
Filed: November 25, 2003 :
Attorney Docket No. :
07589.0149.NPUS01 :

This is a decision on the petition to revive an abandoned application under 37 CFR 1.137(b), filed January 5, 2006

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed January 10, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were purchased. Accordingly, no reply having received, the application became abandoned on April 11, 2005. A Notice of Abandonment was mailed on August 5, 2005.

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of an Amendment, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 1725 for consideration of the Amendment filed January 5, 2006.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,214	11/26/2003	Bruce Albrecht	ITW7510.073	1213
33647	7590	03/31/2008	EXAMINER	
ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (ITW)			MILLER, WILLIAM L	
136 S WISCONSIN ST			ART UNIT	PAPER NUMBER
PORT WASHINGTON, WI 53074			3677	
			NOTIFICATION DATE	DELIVERY MODE
			03/31/2008	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):

info@zpspatents.com
rlt@zpspatents.com
klb@zpspatents.com



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MAR 28 2008

TECHNOLOGY CENTER 3600

ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC
136 SOUTH WISCONSIN STREET
PORT WASHINGTON, WI 53074

In re application of	:	
Albrecht et al.	:	DECISION ON PETITION TO
Application No. 10/707,214	:	REVIEW RESTRICTION
Filed: November 26, 2003	:	REQUIREMENT UNDER
Attorney Docket No. ITW7510.073	:	37 CFR 1.144
FOR: WELDING STUD	:	

This is in response to the petition filed on October 18, 2007 for review of the restriction requirement mailed on May 15, 2007 and made final on September 18, 2007.

Applicant petitions for review of the restriction requirement and suitable remedy in the form of withdrawal of the restriction requirement.

The petition is **GRANTED**.

On May 15, 2007 a requirement for restriction was mailed between Group I, claims 1-17 and 25-29, a welding stud, and Group II, claims 18-24, a method of manufacturing. The examiner provided reasons for the restriction between Groups I and II.

In the examiner's reason for distinctness the two groups of claims were restricted as process of making and product made. The examiner indicated that the product could be made from casting instead of stamping or etching and that the process could be used to make other products such as a set-screw.

Applicants response filed on June 15, 2007 traversed the restriction requirement with the following arguments: 1) The examiner failed to show that the process of Group II required etching or stamping to form the welding stud of Group I and that the process of Group II could not also cover a casting process and 2) The method of making of Group II requires a welding stud, thus the process could not be used to make a set-screw.

With respect to the first argument, the examiner responded to the traversal by indicating that the grooves in the second end of the stud could be formed via casting as opposed to etching or machining as recited in claims 21 and 22. Although not providing a more clear distinction between Group I and Group II, the examiner did indicate that the groups were related as process of making and product made. Further, the specification provides no basis for claim 18

covering a casting process thus providing evidence to the distinction between Group I and Group II.

With respect to the second argument, the examiner seemingly conceded that the process could not be used to make a set-screw. The examiner also correctly pointed out that MPEP 806.05(f) did not require that the examiner to meet both conditions and the first condition had been met.

While not brought to point in the traversal of June 15, 2007, applicant argues in the petition filed October 18, 2007 that claims have been examined through the course of four (4) Office Actions, two (2) Advisory Actions, and two (2) RCE's and thus the examination of all of the claims cannot be considered to be a serious burden. Due to the lengthy prosecution and examination of claims 1-29, it cannot be seen how the continued examination of these claims can be considered a burden.

As a result, the restriction requirement mailed on September 18, 2007 is hereby vacated and the application is being returned to the examiner for consideration of claims 1-29 on the merits.

Any question concerning this decision should be referred to Supervisory Patent Examiner Jennifer Gay at (571) 272-7029.



Donald T Hajec
Director, Technology Center 3600
(571) 272-5150
Facsimile: (571) 273-8300

JG/TL: 03/27/08

R



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JUN 29 2004

TECHNOLOGY CENTER 2100

NAIPO (North America International
Patent Office)
P.O. Box 506
Merrifield, VA 22116

In re Application of:
Meng-Shin Yen, et al.
Application No. 10/707,223
Filed: November 28, 2003
For: DATA ACCESS METHOD FOR
IMPROVING PERFORMANCE OF AN
OPTICAL DISK DRIVE

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY
OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 18, 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, Mord Michael Lewis, 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.



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750



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JUL 22 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Application No. 10/707,224
Filed: 11/28/03

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:

- (1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
- (2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
- (3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
- (4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

The requester, Mr. Michael Mord Lewis, is not of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701



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EDWARD YOO C/O BENNETT JONES
1000 ATCO CENTRE
10035 - 105 STREET
EDMONTON, ALBERTA AB T5J3T-2 CA CANADA

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of
Saul Katz, et al.
Application No. 10/707,230
Filed: November 28, 2003
Attorney Docket No. 45496.20

:
:
:
:
:
:

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 11, 2006. A Notice of Abandonment was mailed on December 4, 2006. In response, on December 29, 2006, the present petition was filed.

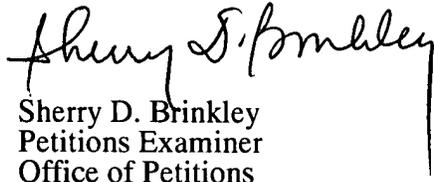
The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of \$395 and the submission required by 37 CFR 1.114; (2) the petition fee of \$750; and (3) a proper statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the \$510 extension fees paid with the present petition are being credited to counsel's deposit account.

This application is being referred to Technology Center AU 1761 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions



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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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JUN 25 2007

OFFICE OF PETITIONS

In re Patent No. 7,098,674 :
Stanley et al. :
Issue Date: August 29, 2006 : LETTER REGARDING
Application No. 10/707,238 : PATENT TERM ADJUSTMENT
Filed: November 30, 2003 :
Attorney Docket No. 5701-02263 :

This is in response to the COMMUNICATION REGARDING PATENT TERM ADJUSTMENT filed October 3, 2006, pursuant to patentee's duty of good faith and candor. Patentees disclose that the patent term adjustment indicated on the patent may be incorrect.

The request for reconsideration of patent term adjustment is **GRANTED-IN-PART**.

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 seventy-two (72) days.

On August 29, 2006, the above-identified application matured into U.S. Patent No. 7,098,674, with a revised Patent Term Adjustment of 320 days. Patentees state no basis for their assertion that this calculation may be incorrect.

On October 3, 2006, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee).

Patentees' attempt at candor is appreciated, and the PTA calculation appears to be incorrect.

A period of adjustment of 440 days was entered pursuant to 37 CFR §§ 1.702(a)(2) and 1.703(a)(2) for the mailing of a notice of allowance and issue fee due on July 27, 2006, more than 4 months from the receipt of the notice of appeal on July 21, 2005, and 1.703(a)(6) for the issuance of this patent on August 29, 2006, which is more than four months from the payment of the issue fee on October 18, 2005. This period was properly reduced by 120 days pursuant to 37 CFR 1.704(c)(10) for the filing of a "statement of substance of interview" on August 9, 2005, subsequent to the submission of the issue fee.

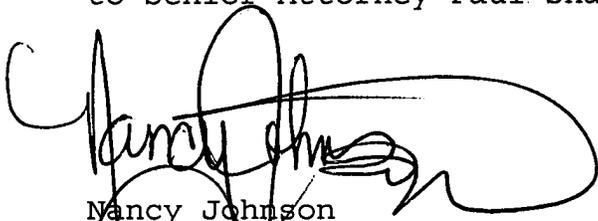
It is noted that the notice of allowance and issue fee due was mailed on August 5, 2005, and not on July 27, 2006. Consequently, the Office delay amounted to 192 days, and not 440.

In view thereof, the patent should have issued with a revised patent term adjustment of 192 minus 120, or 72 days.

In view thereof, the patent should have issued with a patent term adjustment of seventy-two (72) days.

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 **seventy-two (72) days**.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,098,674 B2
DATED : August 29, 2006
INVENTOR(S) : Stanley 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 (320) days

Delete the phrase "by 320" and insert – by 72 days--



NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD VA 22116

MAIL

JUN 10 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Wein-Town Sun	:	
Application No. 10/707,243	:	DECISION ON REQUEST TO
Filed: December 1, 2003	:	WITHDRAW AS ATTORNEY
For: DATA DRIVER USED IN A CURRENT- DRIVING DISPLAY DEVICE	:	

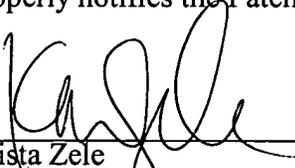
This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

- A grantable request to withdraw as attorney/agent of record must do the following:
- (1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
 - (2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
 - (3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
 - (4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorney/Agent requesting withdraw is not of record.

Further communications will be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.


 Krista Zele
 Special Program Examiner
 Technology Center 2600
 Communications
 (703) 305-4701



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NOVAK DRUCE & QUIGG, LLP
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WASHINGTON, DC 20005

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JUL 27 2006

OFFICE OF PETITIONS

In re Application of :
Jorgen Ahlberg :
Application No. 10/707,251 :
Filed: December 1, 2003 :
Attorney Docket No. 07589.0145.PCUS00 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 5, 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 15, 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 16, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3612 for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions



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Paper No. 092104

OCT 26 2004

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of: :
Hsin-Ming Chen :
Serial No.: 10/707,258 :
Filed: December 01, 2003 :
Attorney Docket No.: **TOPP0003USA0** :

**DECISION ON REQUEST TO WITHDRAW
FROM RECORD**

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 18, 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 Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

All future communications from the Office will continue to be directed to the above address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.


Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



BERKELEY LAW & TECHNOLOGY GROUP
1700 NW 167TH PLACE
SUITE 240
BEAVERTON, OR 97006

COPY MAILED

MAY 0 8 2006

OFFICE OF PETITIONS

In re Application of
Noah E. Robinson
Application No. 10/707,263
Filed: December 2, 2003
Attorney Docket No. 033.P002

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:

**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 3, 2005.

The petition is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michelle C. Craig on behalf of all attorneys/agents of record who are associated with customer No. 00043831.

All attorneys/agents associated with the Customer Number 00043831 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 named inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the named inventor or the assignee of the entire interest at the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 1655 to await a reply to the non-final Office action mailed February 9, 2006.


Amelia Au
Petitions Examiner
Office of Petitions

cc: NOAH E. ROBINSON
2251 DICK GEORGE ROAD
CAVE JUNCTION, OR 97523



NOAH E. ROBINSON
2251 DICK GEORGE RD
CAVE JUNCTION, OR 97523

COPY MAILED

JAN 26 2007

OFFICE OF PETITIONS

In re Application of :
Noah E. Robinson :
Application No. 10/707,263 :
Filed: December 2, 2003 :
Attorney Docket No. :

ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed December 6, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C § 704.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed February 9, 2006, which set a shortened statutory period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136. No response was received within the allowable period, and the application became abandoned on May 10, 2006. A Notice of Abandonment was mailed on October 16, 2006.

In the instant petition, petitioner maintains that the non-final Office action was never received and that the holding of abandonment should be withdrawn accordingly.

A review of the application file and the Office computer records relative to the subject application file reveals that on February 9, 2006 (the date the non-final Office action was mailed), the address of record was listed as the offices of Berkley Law and Technology Group. Title 37 of the Code of Federal Regulations section 1.33(a) and Section 601.03 provides that the applicant must promptly notify the Office of a change in the correspondence address. The record reflects that a Request for Withdrawal of Attorney and Change of Correspondence Address was filed by Berkley Law and Technology Group on October 3, 2005, but not granted and the correspondence address changed until May 8, 2006. Section 711.03(c)(2) of the Manual of Patent Examining Procedure provides that:

... 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 that due care was taken to adhere to the requirement of prompt notification ... of the change of address. ...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.

Accordingly, the failure of petitioner to receive the non-final Office action at his address does not warrant a withdrawal of the holding of abandonment because petitioner did not promptly notify the Office of the change of correspondence address for the application. In order for a petition to withdraw the holding of abandonment to be successful under these circumstances, petitioner would have to establish that the non-final Office action was not received at the office of Berkley Law an Technology Group as that was the address properly recognized by the Office as the address of record on the day the non-final Office action was mailed.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee (\$1,500.00 for a large entity and \$750.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of the non-final Office action is enclosed for petitioner's convenience.

By mail: Commissioner for Patents
 United States Patent and Trademark Office
 Box 1450
 Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
 Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosures : Non-final Office action mailed February 9, 2006
Form PTO/SB/64

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional)
<p>First named inventor:</p> <p>Application No.: _____ Art Unit: _____</p> <p>Filed: _____ Examiner: _____</p> <p>Title: _____</p> <p>Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 FAX (571) 273-8300</p> <p style="text-align: center;">NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.</p> <p>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.</p> <p style="text-align: center;">APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION</p> <p>NOTE: A grantable petition requires the following items:</p> <ol style="list-style-type: none"> (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. <p>1. Petition fee</p> <p><input type="checkbox"/> Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Other than small entity – fee \$ _____ (37 CFR 1.17(m))</p> <p>2. Reply and/or fee</p> <p>A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):</p> <p><input type="checkbox"/> has been filed previously on _____.</p> <p><input type="checkbox"/> is enclosed herewith.</p> <p>B. The issue fee and publication fee (if applicable) of \$ _____.</p> <p><input type="checkbox"/> has been paid previously on _____.</p> <p><input type="checkbox"/> is enclosed herewith.</p>	

[Page 1 of 2]

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

BT

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.
10/707,263	12/02/2003	Noah E. Robinson		1262

43831 7590 02/09/2006

BERKELEY LAW & TECHNOLOGY GROUP
1700NW 167TH PLACE
SUITE 240
BEAVERTON, OR 97006

EXAMINER

LEARY, LOUISE N

ART UNIT PAPER NUMBER

1655

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/707,263	Applicant(s) ROBINSON, NOAH E.	
	Examiner Louise N. Leary	Art Unit 1655	

- 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 ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-6 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. ____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____.

1. Claims 1-6 are pending in this application.
2. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-6 are indefinite because the claims have been presented as multiple sentences. Claims 1-6 are ambiguous because it is unclear if the intent was to present each step as a claim.

Claims 1-2 are indefinite because the phrase "The invention of" does not set forth a claim limitation. It is suggested that the phrase be deleted in each claim to comply with US Patent practice.

Claim 1 is indefinite because in lines 4-5, the phrase "atoms or groups or groups of atoms" is ambiguous and appears to contain a typographical error. It is suggested that "or groups" be deleted if the phrase contains a typographical error.

Claims 3, 4 and 5 provides for the use of "the techniques described in claims 1 and/or 2", but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 3, 4 and 5 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process

claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claims 3-5 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n).

Regarding claim 6, the phrase "As an example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Correction is required to particularly point out and distinctly claim the subject matter regarded as the invention.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(l). Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Stratton et al (J. of Pharmaceutical Sciences, Vol. 90, No. 12, pp 2141-2148, (December 2001).

Stratton et al disclose a technique for the design of changes in deamidation rates in a model peptide. Stratton et al describe "Controlling Deamidation Rates in a Model

Art Unit: 1655

Peptide: Effects of Temperature, Peptide Concentration, and Additives". With respect to the claim limitation "the determination of a table of constants for atoms or groups or groups or groups of atoms", Stratton et al disclose the conformational effect and intramolecular event in the deamidation rate controlling method. See this entire reference. Also, Stratton et al disclose "[Deamidation of asparagines (Asn) residues is probably the most common pathway for chemical inactivation of protein pharmaceuticals^{1,2} The reaction rate for deamidation in aqueous solution is dependent on a number of extrinsic factors, such as pH,³⁻⁶ solvent dielectric,⁷ buffer concentration,⁵ and temperature,⁵ as well as intrinsic factors, such as the primary sequence⁸⁻¹⁰ and the presence of secondary^{2,11,12} and tertiary structure.¹³]" See page 2141.

(II). Claim 1-2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Robinson et al (PNAS, Vol. 98, No. 8, pp 4367-4372, (April 2001).

Robinson et al disclose a technique for the design of changes in deamidation rates in a peptide sequences. Robinson et al disclose "Prediction of protein deamidation rates from primary and three-dimensional structure". The method quantitatively estimates "...deamidation of asparaginyl (Asn) residues in proteins...". See the Abstract on page 4367. Regarding the instant "constants for atoms" table limitations, Robinson et al describe structural changes in proteins due to the effects of other molecular compounds. Also, Robinson et al describe hydrogen bonds associated with the proteins. See this entire document. Further, Robinson et al disclose "[Figs. 1-3 serve as a reasonable basis for estimating that Asn deamidation in proteins is, on

Art Unit: 1655

average, determined approximately 60% by primary structure and 40% by 3D structure.]” Note page 4371.

(III). Claim 1-2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Robinson (PNAS, Vol. 99, No. 8, pp 5283-45288, (April 16, 2002).

Robinson discloses a technique for the design of changes in deamidation rates in a peptide sequences. Robinson discloses “Protein deamidation”.

rates from primary and three-dimensional structure”. The method quantitatively estimates “...deamidation of asparaginy (Asn) residues in proteins...”. See the Abstract on page 5283. Regarding the instant “constants for atoms” table limitations, Robinson also describe structural changes in proteins due to the effects of other molecular compounds. Robinson et al describes atoms and hydrogen bonds associated with the proteins. See this entire document. In addition, Robinson et al disclose Asn deamidation in proteins and predicts the average determined by primary structure and by 3D structure. Note this entire document.

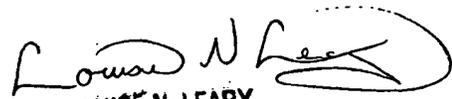
4. Darrington et al disclose “Effects of Insulin Concentration and Self-Association on the Partitioning of It’s a-21 Cyclic Anhydride Intermediate to Desamido Insulin and Covalent Dimer” and has been cited to further show the state of this art.

5. No claim is allowed.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louise N. Leary whose telephone number is 571-272-0966. The examiner can normally be reached on Monday to Friday from 10 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey, can be reached on 571-272-0775. 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).


LOUISE N. LEARY
PRIMARY EXAMINER

February 2, 2006



**MELVIN HARPER
LUKE HARPER
817 SOUTH SECOND STREET
APARTMENT 1
MANKATO, MN 56001**

COPY MAILED

JAN 05 2005

OFFICE OF PETITIONS

In re Application of :
Melvin Harper et al :
Application No. 10/707,268 : **ON PETITION**
Filed: December 2, 2003 :
For: RISER FOR NARROW CARVING SKIS :

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 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 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.

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

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

Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: MELVIN HARPER
7280 TURKEY CREEK RD
LITTLETON, CO 80125



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**MELVIN HARPER
7280 TURKEY CREEK RD
LIHLETON, CO 80125**

COPY MAILED

FEB 14 2005

In re Application of :
Melvin Harper et al :
Application No. 10/707,268 :
Filed: December 2, 2003 :
For: RISER FOR NARROW CARVING SKIS :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 27, 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 the Office of Initial Patent Examination for preexamination processing.


Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MAY 06 2005

OFFICE OF PETITIONS

In re Application of :
Manole, et al. :
Application No. 10/707,272 :
Filed: December 2, 2003 :
Attorney Docket No. 2003-056 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed April 13, 2005, which has been treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed August 5, 2004. Accordingly, this application became abandoned on November 6, 2004. A Notice of Abandonment was mailed on March 30, 2005.

Petitioner asserts that a proper response was timely filed in response to the Office action in the form of an amendment and a terminal disclaimer on August 23, 2004 by facsimile. In support, petitioner has submitted a copy of the originally filed amendment and terminal disclaimer. The amendment and terminal disclaimer are accompanied by a executed Certificate of Facsimile Transmission under 37 CFR 1.8 dated August 23, 2004. Additionally, petitioner has submitted a copy of the "Auto-Reply Facsimile Transmission," that indicates the complete August 23, 2004 submission was received by the Office on that date at 5:20 PM EST.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

A petition fee has not been charged.

The file is being forwarded to Technology Center 3600 for further examination *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office



**NOVAK DRUCE & QUIGG
1300 EYE STREET NW
400 EAST TOWER
WASHINGTON, DC 20005**

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FEB 28 2006

In re Application of : **OFFICE OF PETITIONS**
Anders Larsson :
Application No. 10/707,273 : **ON PETITION**
Filed: December 2, 2003 :
Attorney Docket No. 07589.0081.NPUS01 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 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. Accordingly, the above-identified application became abandoned on July 1, 2005.

The instant petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentionally delay have been received. Accordingly, the reply to the non-final Office action of March 31, 2005 is accepted as having been unintentionally delayed.

This matter is being referred to Technology Center AU 3745.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.


Wan Laymon
Petitions Examiner
Office of Petitions



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SUGAR LAND, TX 77478

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JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Kuo-Chiang Chen, et al. :
Application No. 10/707,274 : **DECISION ON PETITION**
Filed: December 2, 2003 :
Attorney Docket No. 20.2894 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 20, 2008, to revive the above-identified application.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 4, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 5, 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 reply, (2) the petition fee of \$1620, (3) a proper statement of unintentional delay; and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2862 for appropriate action by the Examiner in the normal course of business on the reply received October 20, 2008.

April M. Wise
April M. Wise
Petitions Examiner
Office of Petitions



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ONE ARIZONA CENTER
400 E. VAN BUREN STREET
PHOENIX, AZ 85004-2202

Mail Date: 04/23/2010

Applicant	: Fred Bishop	: DECISION ON REQUEST FOR
Patent Number	: 7599857	: RECALCULATION OF PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/707,309	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **342** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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OAKLAND, CA 94612-0250

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JUL 26 2007

OFFICE OF PETITIONS

In re Application of	:	
WEBB	:	
Application No.: 10/707,314	:	DECISION ON PETITION
Filing Date: December 4, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: GENSP009C1	:	

This is a decision on the petition under 37 CFR 1.181 to withdraw a holding of abandonment and the conditional petition under 37 CFR 1.137(b), filed April 17, 2007, to revive the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) 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 16, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on January 17, 2007.

Although applicant submitted an authorization to charge the issue fee to Deposit Account No. 50-0388 on 13 November 2006, insufficient funds remained in the deposit account at the time the Office attempted to charge the requisite fee.

The petition states that the deposit account funds were replenished on the date the charge was attempted. However, 37 CFR 1.25(a) states in relevant part, "An amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted." A review of the deposit account record filed with the petition confirms that applicant's deposit account did not contain an amount sufficient to cover the requisite fee at the time the charge was attempted. Thus, the Notice of Abandonment mailed February 19, 2007 was proper.

The petition under 37 CFR 1.137(b) satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

With further regard to the statement in the petition that "the entire delay in paying the issue fee in the above-identified application from the date that such payment was due until the filing of this paper was entirely unintentional", this statement is interpreted as 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 under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

The 37 CFR 1.137(b) petition fee of \$1500.00 will be charged to Deposit Account No. 50-0388

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy



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Paper No. 080504

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

AUG 19 2004

In re Application of:	:	
YI-LIN LAI et al.	:	
Serial No.: 10/707,320	:	DECISION ON REQUEST TO WITHDRAW
Filed: December 04, 2003	:	FROM RECORD
Attorney Docket No.: VIAP0067USA0	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

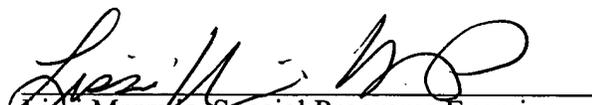
The request is **DISMISSED**.

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

All future communications from the Office will continue to be directed to the above 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



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FEB 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Bertil Jonsson	:	
Application No. 10/707,331	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. 07589.0139.PCUS00	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed September 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed November 28, 2005, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 29, 2006. See MPEP 1215.04. On September 5, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of \$810 and the submission required by 37 CFR 1.114; (2) the petition fee of \$1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3681 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



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FEB 06 2006

In re Application of :
Bystedt et al. :
Application No. 10/707,332 :
Filed: December 5, 2003 :
Attorney Docket No. 00173.0046.PCUS00 :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Response to the Non-Final Office Action; (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 examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.


Liana Chase
Petitions Examiner
Office of Petitions



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OFFICE OF PETITIONS

In re Application of :
Bystedt et al. :
Application No. 10/707,332 : **ON PETITION**
Filed: December 5, 2003 :
Attorney Docket No. 0173.046.PCU00 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 21, 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 timely and properly reply to the Office action mailed April 19, 2006, which set forth a period of reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 20, 2006. A Notice of Abandonment was mailed January 16, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply,
- (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 petition² under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.

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(s) (1). The amendment submitted with the instant petition has still been deemed as non-responsive by the Technology Center, as it did not provide the corrected claim notations and is currently amended incorrectly. Any questions concerning this should be directed to the Technology Center.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

Cc TRACY W. DRUCE
NOVAK DRUCE & QUIGG, LLP
1000 LOUISIANA, FIFTY-THIRD FLOOR
HOUSTON, TX 77002



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JUN 16 2008

In re Application of :
Bystedt et al. :
Application No. 10/707,332 : DECISION ON PETITION
Filed: December 5, 2003 :
Attorney Docket No. 0173.046.PCUS00 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3754 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions



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JAN 25 2006

OFFICE OF PETITIONS

In re Application of :
Bystedt et al. :
Application No. 10/707,334 :
Filed: December 5, 2003 :
Attorney Docket No. 00173.0047.PCU00 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE (with requisite fee) and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

Since a Notice of Allowance was issued on January 19, 2006, the file is being forwarded to the Publishing Division to await payment of the Issue and Publication fees.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.


Liana Chase
Petitions Examiner
Office of Petitions



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AUG 18 2006

OFFICE OF PETITIONS

In re Application of :
Wendeberg et al. :
Application No. 10/707,337 :
Filed: December 5, 2003 :
Attorney Docket No. 00173.0049.PCUS002 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 4, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Response to the Office action; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.


Liana Chase
Petitions Examiner
Office of Petitions



DECHERT LLP
P.O. BOX 390460
MOUNTAIN VIEW, CA 94039-0460

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MAR 20 2008

OFFICE OF PETITIONS

In re Application of	:	
Zhidan Li Tolt	:	
Application No. 10/707,342	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. 372668-00400 (362842)	:	

This is a decision on the petition, filed March 18, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 27, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.


Irvin Dingle
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



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171 MONROE AVENUE, N.W.
SUITE 600
GRAND RAPIDS MI 49503**

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JUL 12 2006

OFFICE OF PETITIONS

In re Application of :
Johnson et al. :
Application No. 10/707,392 : **ON PETITION**
Filed: December 10, 2003 :
Attorney Docket No. 71189-1573 :

This is a decision on the petition under 37 CFR §1.102(d), filed May 30, 2006, 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 II: Infringement.

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 with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 1744 for expedited prosecution.


David Bucci
Petitions Examiner
Office of Petitions



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SNELL & WILMER L.L.P. (Main)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX, AZ 85004-2202

Mail Date: 04/26/2010

Applicant : Mike Brown : DECISION ON REQUEST FOR
Patent Number : 7634559 : RECALCULATION of PATENT
Issue Date : 12/15/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/707,393 : OF WYETH AND NOTICE OF INTENT TO
Filed : 12/10/2003 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1191** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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LAW OFFICES OF ROBERT B POLIT
8804 LAKE RIDGE DR
DARIEN IL 60561

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MAR 02 2005

OFFICE OF PETITIONS

In re Application of :
Nugent Vitallo : DECISION ON PETITION
Application No. 10/707,404 :
Filed: December 11, 2003 :
Attorney Docket No. 1002P0021US :

This is a decision on the petition filed February 15, 2005, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts, mailed February 24, 2004. This Notice set a period for reply of two months from the mail date of the Notice to submit an executed oath or declaration, a surcharge for its late filing, and replacement drawings. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on April 25, 2004. A Notice of Abandonment was mailed on November 23, 2004.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required items in response to the Notice to File Missing Parts.

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions



BRUCE E. HARANG
PO BOX 872735
VANCOUVER, WA 98687-2735

COPY MAILED

NOV 14 2006

OFFICE OF PETITIONS

In re Application of McKenzie :
Application No. 10/707,410 : Decision on Petition
Filing Date: December 11, 2003 :
Attorney Docket No. 04112 :

This is a decision on the petition filed July 3, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

Facts:

A final Office action was mailed November 25, 2005.

The final Office action set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained.

A reply was not matched with the file. As a result, the application was deemed abandoned as of February 26, 2006, and a Notice of Abandonment was mailed on June 23, 2006.

Discussion:

Petitioner has established a reply was timely filed February 4, 2006, but was lost or misplaced by the Office rather than matched with the file.

Unfortunately, although the reply was timely, the reply was not a proper reply to the final Office action.

A proper reply to a final rejection consists only of:

- (1) an amendment which *prima facie* placed the case in condition for allowance,
- (2) a Notice of Appeal and the required fee,
- (3) a RCE, or
- (4) a continuation application.

Petitioner submitted an amendment on February 4, 2006. The proposed amendment was sent to the examiner to determine whether it placed the application in condition for allowance. The examiner determined that the proposed amendment raised new issues requiring further search or

consideration. Since the amendment does not prima facie place the application in condition for allowance, it is an improper reply to the final Office action mailed on November 25, 2005.

Any renewed petition should be accompanied by a proper reply in the form of a Notice of Appeal, RCE, or continuation application. If petitioner fails to reply in the form of a Notice of Appeal (and fee), proper RCE, or continuation application, it may be construed as an intentional delay in presenting a grantable petition, which may adversely affect petitioner's ability to revive the abandoned application.

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, the required petition fee (\$750 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 form is enclosed for petitioner's convenience.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision.

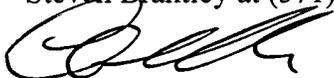
Further correspondence with respect to this matter should be addressed as follows:

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: Copy of Advisory Action
Form PTO/SB/64

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/707,410	Applicant(s) MCKENZIE, JOHN S.	
Examiner Thomas J. Brahan	Art Unit 3654	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 July 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: 1-12.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of 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: _____


Thomas J. Brahan
Primary Examiner
Art Unit: 3654

Continuation of 3. NOTE: Amending claim 1 by the addition of the C-clamp mounting device raises new issues. Although this limitation was in previously examined claim 12, this limitation is now being claimed in combination with the limitations of claims 2-9, as to be claiming new combinations of elements, as to require further consideration and/or searching.

**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.

[Page 1 of 2]

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.



BRUCE E. HARANG
PO BOX 872735
VANCOUVER, WA 98687-2735

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of McKenzie :
Application No. 10/707,410 : Decision on Petition
Filing Date: December 11, 2003 :
Attorney Docket No. 04112 :

This is a decision on the renewed petition filed January 10, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

A petition under 37 CFR 1.181 was filed on July 3, 2006.

A decision dismissing the petition was mailed November 14, 2006.

The decision dismissed the petition because, although petitioner provided a reply to a final Office action was timely filed on February 4, 2006, the reply was improper. Since a proper reply was not timely filed, the application was abandoned as a matter of law.

Petitioner has filed a RCE and request for reconsideration under 37 CFR 1.181. However, petitioner has still not shown a proper reply was timely filed in response to the final Office action mailed November 25, 2005.

The decision mailed November 14, 2006, included the following language,

Any renewed petition should be accompanied by a proper reply in the form of a Notice of Appeal, RCE, or continuation application. If petitioner fails to reply in the form of a Notice of Appeal (and fee), proper RCE, or continuation application, it may be construed as an intentional delay in presenting a grantable petition, which may adversely affect petitioner's ability to revive the abandoned application.

The way the words above were phrased has apparently resulted in a misunderstanding. The paragraph's poor phrasing was not intended to indicate a renewed petition, including only one of the three items listed, would be grantable.

The decision recommended petitioner file a petition under 37 CFR 1.137(b). The paragraph quoted above should have been placed *after* the recommendation. The paragraph should have

indicated any petition under 37 CFR 1.137(b) "should be accompanied by" one of the listed items.

Unless petitioner can demonstrate a proper reply was filed on February 4, 2006, petitioner may wish to file a petition under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (now filed in the form of a RCE), the required petition fee (\$750 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.

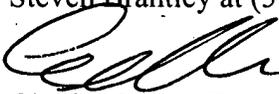
Further correspondence with respect to this matter should be addressed as follows:

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



Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 080504

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

AUG 24 2004

In re Application of:	:	
WEN-FA SUNG et al.	:	
Serial No.: 10/707,414	:	DECISION ON REQUEST TO WITHDRAW
Filed: December 12, 2003	:	FROM RECORD
Attorney Docket No.: AUOP0004USA0	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

The request is **DISMISSED.**

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

All future communications from the Office will continue to be directed to the above 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



MAIL

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD VA 22116

JUL 22 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
LIU, PI-HAI	:	
Application No. 10/707419	:	DECISION ON REQUEST TO
Filed: December 12, 2003	:	WITHDRAW AS ATTORNEY
For: METHOD AND APPARATUS FOR RLL	:	
CODE ENCODING AND DECODING	:	

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

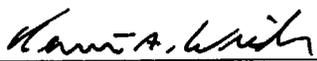
A grantable request to withdraw as attorney/agent of record must do the following:

- (1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
- (2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
- (3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
- (4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorney/Agent requesting withdraw is not of record.

Further communications will be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.


 Kenneth Wieder
 Special Program Examiner
 Technology Center 2600
 (703) 305-4710



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 092104

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

SEP 28 2004

In re Application of:	:	
Shih <i>et al.</i>	:	
Serial No.: 10/707,439	:	DECISION ON REQUEST TO WITHDRAW.
Filed: December 15, 2003	:	FROM RECORD
Attorney Docket No.: AUOP0013USA0	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

The request is **DISMISSED**.

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

All future communications from the Office will continue to be directed to the above 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

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RICHARD D. FUERLE
1711 W. RIVER RD.
GRAND ISLAND, NY 14072

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of :
Conrad S. Mikulec :
Application No. 10/707,452 :
Filed: December 15, 2003 :
Attorney Docket No. CM04 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 14, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 15, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3752 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
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Paper No. 082504

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

SEP 15 2004

In re Application of:	:	
CHE-CHIH CHANG et al.	:	
Serial No.: 10/707,453	:	DECISION ON REQUEST TO WITHDRAW
Filed: December 15, 2003	:	FROM RECORD
Attorney Docket No.: ADTP0048USA0	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

The request is **DISMISSED**.

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

All future communications from the Office will continue to be directed to the above address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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NOVAK DRUCE & QUIGG, LLP
1300 EYE STREET NW
400 EAST TOWER
WASHINGTON, DC 20005

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JUL 17 2006

OFFICE OF PETITIONS

In re Application of :
Jorgen Ahlberg, et. al. :
Application No. 10/707,486 : ON PETITION
Filed: December 17, 2003 :
Attorney Docket No. 07589.0146.PCUS00 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2006, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed January 25, 2005. A Notice of Abandonment was mailed on August 25, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Election; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 3611, 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

JAN - 4 2005

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Buckley, Maschoff, Talwalkar LLC
5 Elm Street
New Canaan, CT 06840

MAILED
JAN - 4 2005
OFFICE OF THE DIRECTOR
TC 3600

In re application of	:	DECISION ON PETITION
Emerson P. Jones, et al.	:	TO MAKE SPECIAL
Application No. 10/707,491	:	(ACCELERATED
Filed: December 17, 2003	:	EXAMINATION)
For: METHOD AND APPARATUS FOR ISSUING A UNIT		

This is in response to the petition filed on October 28, 2004, to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02, VIII have been met, the petition is **GRANTED**.

In satisfaction of item (B) above, the petitioner states, "If the Office determines that all of the pending claims are not obviously directed to a single invention, Applicants will make an election without traverse."

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/rwg: 12/18/04



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Paper No. 082504

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

OCT 1 2004

In re Application of: :
YUN-SHENG CHEN :
Serial No.: 10/707,493 : DECISION ON REQUEST TO WITHDRAW
Filed: December 18, 2003 : FROM RECORD
Attorney Docket No.: ADTP0095USA0 :

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

The request is **DISMISSED**.

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

All future communications from the Office will continue to be directed to the above address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin
Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



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21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI, FL 33180

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FEB 13 2007

OFFICE OF PETITIONS

In re Application of	:	
AVERBUCH	:	
Application No.: 10/707,521	:	DECISION ON PETITION
Filing Date: December 19, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: (none)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 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 restriction requirement mailed January 17, 2006, which set a one (1) month period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on February 18, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement mailed January 17, 2006 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 2838 for appropriate action on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy



CARRIER CORPORATION
ONE CARRIER PLACE
INTELLECTUAL PROPERTY DEPARTMENT
FARMINGTON, CT 06034

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JUL 25 2005

OFFICE OF PETITIONS

In re Application of :
Rajendra K. Shah, et al. :
Application No. 10/707,524 : **ON PETITION**
Filed: December 19, 2003 :
Attorney Docket No. 10833 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 17, 2005, to revive the above-identified application.

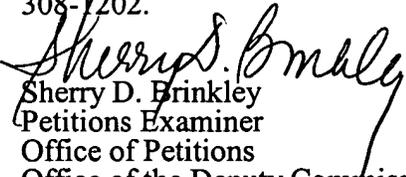
The petition is **GRANTED**.

The application became abandoned for a failure to timely respond to a Notice to File Corrected Application Papers (Notice) mailed August 9, 2004. The Notice required replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. On May 10, 2005, a Notice of Abandonment was mailed. For some unknown reason, the Notice of Abandonment was withdrawn in a communication mailed June 14, 2005. On May 17, 2005, the present petition was filed including, *inter alia*, the replacement drawings and a 5-month petition for extension of time.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired, i.e., October 10, 2004. Therefore, no extension of time fees are due on a petition for revival. In view thereof, the \$2,160 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

The application is being referred to the Office of Initial Patent Examination (OIPE) for review of the drawings provided on May 17, 2005.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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NOVAK DRUCE AND QUIGG LLP (Volvo)
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON, TX 77002

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MAY 29 2008

OFFICE OF PETITIONS

In re Application of :
Stefan Gudmundsson et al :
Application No. 10/707,551 :
Filed: December 20, 2003 :
Attorney Docket No. 7589.143.PCUS00 :

ON PETITION

This is a decision on the petition filed January 4, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed September 27, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 28, 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions



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NOVAK DRUCE & QUIGG LLP
1300 EYE STREET NW
400 EAST TOWER
WASHINGTON, DC 20005

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OCT 04 2006

OFFICE OF PETITIONS

In re Application of :
Bertil Jonsson :
Application No. 10/707,557 : DECISION GRANTING PETITION
Filed: December 20, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. :
07589.0141.PCUS00 :

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 within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 16, 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 May 17, 2005. A Notice of Abandonment was mailed on August 25, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (a request for continued examination, \$790 fee therefor, and submission as required by 37 CFR 1.114) to the final Office action of February 16, 2005, (2) the \$1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of February 16, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3746 for processing the RCE and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received January 3, 2006.


Frances Hicks
Petitions Examiner
Office of Petitions



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Paper No. 092004

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

SEP 29 2004

In re Application of: :
YANG-EN WU *et al.* :
Serial No.: 10/707,559 :
Filed: December 22, 2003 :
Attorney Docket No.: ADTP0047USA0 :

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 May 18, 2004.

The request is **DISMISSED.**

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

All future communications from the Office will continue to be directed to the above address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



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JUL 20 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Application No. 10/707,563
Filed: 12/22/03

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DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:

- (1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
- (2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
- (3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
- (4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

The requester, Mr. Michael Mord Lewis, is not of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 04/26/2010

Applicant	: Yohannes Tesfai	: DECISION ON REQUEST FOR
Patent Number	: 7573945	: RECALCULATION OF PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/707,588	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1580** 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.



ERNEST A. BEUTLER, ATTORNEY AT LAW
10 RUE MARSEILLE
NEWPORT BEACH CA 92660

SEP - 2 2006

In re Application of:	:	
Hideaki Takahashi	:	DECISION ON PETITION
Serial No.: 10/707,589	:	TO ACCEPT PAPERS
Filed: December 23, 2003	:	AS BEING TIMELY FILED
Attorney Docket No.: SIMTEK6715	:	

This is a decision on the petition filed on August 6, 2006, requesting that the amendment filed together with the petition be accepted as being timely filed.

The petition is DENIED.

Petitioner requests that amendment be accepted as timely filed because of a delay by the Office in responding to an earlier filed petition.

A review of the file record indicates that a Final Office action was mailed on January 25, 2006. On January 26, 2006, petitioner filed a petition requesting that the finality of the Office action be withdrawn. On April 23, 2005, petitioner filed a letter requesting the status of the application. On August 1, 2006, a decision granting the petition to withdraw the finality of the Office action was mailed.

Under the provisions of 35 U.S.C. 133, upon failure of an applicant to prosecute an application within six months after any action therein, the application shall be regarded as abandoned. In other words, after an applicant fails to respond to an Office action within the six month statutory period, the application becomes abandoned by operation of law.

Pursuant to 37 C.F.R. § 1.181(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."

Under the provisions of 37 C.F.R. § 1.181(f), the filing of the petition on January 26, 2006 did not toll the time for filing a response to the Office action of January 25, 2006. As such, it was incumbent upon applicant to take steps to ensure against the abandoning of the application.

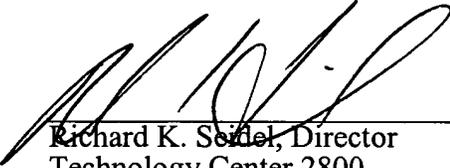
While it is regrettable that a decision on the petition was not promptly rendered, the lack of a decision on the petition did not suspend the responsibility of the applicant to ensure against the abandoning of the application. In the instant case, applicant did not file a proper response to the Office action mailed on January 25, 2006 during the six month statutory period for response. Since there was no proper response to the Office action by July 25, 2006, this application became abandoned by operation of law after July 25, 2006.

For the above stated reasons, the petition is denied.

Petitioner may wish to consider filing a petition under 37 C.F.R. § 1.137 (a) or (b) to revive the application.

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 inquiries regarding this decision should be directed to Special Program Examiner Edward Westin at (571) 272-1638.



Richard K. Sidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



**ERNEST A. BEUTLER, ATTORNEY AT LAW
10 RUE MARSEILLE
NEWPORT BEACH CA 92660**

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JAN 29 2008

OFFICE OF PETITIONS

In re Application of :
Hideaki TAKAHASHI :
Application No. 10/707,589 :
Filed: December 23, 2003 :
Attorney Docket No. SIMTEK6715 :

ON PETITION

This is a decision on the petition filed September 12, 2006 under 37 CFR 1.181(a)(3) requesting the Director exercise his supervisory authority and overturn the decision of the Director, Technology Center 2800 (Technology Center Director), dated September 2, 2006, which refused to: (1) withdrawal the holding of abandonment; and (2) enter the amendment filed August 6, 2006.

The petition to overturn the decision of the Technology Center Director dated September 12, 2006, is **DENIED**¹.

BACKGROUND

The instant application was filed December 23, 2003.

A non-final Office action was mailed July 21, 2005.

An amendment was filed August 20, 2005 and supplemented on November 11, 2005.

On January 25, 2006 a final Office action was mailed.

On January 26, 2006 a petition to invoke supervisory authority was filed.

On August 1, 2006 a decision granting the petition filed January 26, 2006 was mailed.

On August 6, 2006 an amendment and petition requesting entry of such amendment was filed.

On September 2, 2006 a decision denying the petition of August 6, 2006 was mailed.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

35 U.S.C. 133 states:

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

37 CFR 1.135 states:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.

(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

37 CFR 1.181(f) states:

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.

OPINION

Petitioner specifically requests that the Director overturn the Technology Center Director's decision of September 2, 2006 and (1) withdraw the holding of abandonment; and (2) enter the amendment filed August 6, 2006.

A final Office action was mailed in the instant application on January 25, 2006. Petitioner filed a petition to withdraw the finality of the January 25, 2006 Office action on January 26, 2006. A decision granting the January 26, 2006 petition was mailed August 1, 2006. The petition decision stated "...prosecution on the merits of the instant

application is not closed, and any response to the 1/25/06 office action will be considered as a response to a non-final of action.”

Petitioner argues that the August 1, 2006 petition decision reopened prosecution and set a new period for response due the Office’s delay and thus the August 6, 2006 response should be considered timely.

Initially it is noted that the petition decision of August 1, 2006 does not state that a new period for response to the January 25, 2006 Office action has been set due to Office delay. As stated in 37 CFR 1.135(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.” Additionally, 37 CFR 1.181(f) states: “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.” Petitioner filed no timely amendment to save the application from abandonment within the time period provided in the January 25, 2006 Office action. In fact petitioner filed no amendment until August 6, 2006, after the petition decision of August 1, 2006. Since the filing of the petition on January 26, 2006 did not toll the time for filing a response and the amendment filed August 6, 2006 was filed outside the period for reply to the January 25, 2006 Office action the application has been properly held abandoned.

For the reasons set forth above, the Technology Center Director's decision to refuse petitioners' requests to: (1) withdrawal the holding of abandonment; and (2) enter the amendment filed August 6, 2006 is not shown to be in clear error.

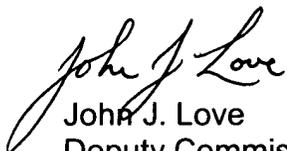
DECISION

A review of the record indicates that the Technology Center Director did not abuse his discretion or act in an arbitrary and capricious manner in the petition decision of September 2, 2006. The record establishes that the Technology Center Director had a reasonable basis to support his findings and conclusion.

The petition is granted to the extent that the decision of the Technology Center Director of September 2, 2006 has been reviewed, but is denied with respect to making any change therein. As such, the decision of September 2, 2006 will not be disturbed. The petition is **denied**.

Petitioner may wish to consider filing a petition under 37 CFR 1.137(a) or (b) to revive the application.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

A handwritten signature in cursive script that reads "John J. Love".

John J. Love
Deputy Commissioner for
Patent Examination Policy

cp

¹ This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1002.02



BRUCE E. HARANG
PO BOX 872735
VANCOUVER WA 98687-2735

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OFFICE OF PETITIONS

In re Application of	:	
Borrego Bel et al.	:	
Application No. 10/707,634	:	DECISION REFUSING STATUS
Filed: December 26, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 813ES	:	
	:	

This is in response to the petition under 37 CFR 1.47(a), filed May 23, 2004.¹

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 26, 2003, without an executed oath or declaration. Accordingly, on March 5, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring an executed oath or declaration and a surcharge for its late filing. On April 23, 2004, applicants submitted a declaration executed by two of the

¹ To avoid abandonment of the application, it is necessary for applicants to obtain an extension of time within the first month. Accordingly, the \$110.00 extension of time fee will be charged to Deposit Account No. 50-2438, as authorized.

three joint inventors. In response, on May 6, 2004, the Office mailed a "Notice of Incomplete Reply (Nonprovisional)," stating that applicants' reply of April 23, 2004 had been entered into the application; however, the signature of Alex Subirates Sole was missing. The period for reply remained as set forth in the Notice of March 5, 2004. Extensions of time to reply were available.

On May 23, 2004, applicants filed the present petition. In the Statement of Facts, Bruce E. Harang states the assignee's Spanish patent counsel couriered a letter requesting Sr. Subirates Sole to execute a declaration for the above-identified application. The letter was returned as undelivered. A second copy of the letter was delivered to Sr. Subirates Sole on May 5, 2004, but he refused to respond. A copy of the front and back of the delivery confirmation receipt and copies of emails between Mr. Harang and the Spanish patent counsel are included with the present petition.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicants lack item (1) as set forth above.

As to item (1), it is unclear from the record whether Sr. Subirates Sole was presented with the complete application papers. Unless Sr. Subirates Sole was presented with a complete copy of the application papers, including the specification, claims and drawings, he could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration that he was given. Accordingly, applicants failed to show or provide proof that the nonsigning inventor has refused to sign the declaration. See MPEP 409.03(d). To show that the inventor has refused to join in the application, applicants must show that complete copies of the application papers, including the specification, claims and drawings, were presented to Sr. Subirates Sole, personally or through his designated representative, and that he did not respond to the request that he sign the declaration.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
 220 20th Street S.
 Customer Window, Mail Stop Petition
 Crystal Plaza Two, Lobby, Room 1B03
 Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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CENTRAL FAX CENTER
360-838-6611 From: Bruce E Harang
OCT 04 2004



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In re Application of
Borrego Bel et al.
Application No. 10/707,634
Filed: December 26, 2003
Attorney Docket No. 813ES
: :
: : DECISION REFUSING STATUS
: : UNDER 37 CFR 1.47(a)
: :
: :

This is in response to the petition under 37 CFR 1.47(a), filed ~~September 10~~
May 23, 2004.¹ ~~May 23, 2004.~~

The petition is dismissed.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 26, 2003, without an executed oath or declaration. Accordingly, on March 5, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring an executed oath or declaration and a surcharge for its late filing. On April 23, 2004, applicants submitted a declaration executed by two of the

¹ To avoid abandonment of the application, it is necessary for applicants to obtain an extension of time within the first month. Accordingly, the \$110.00 extension of time fee will be charged to Deposit Account No. 50-2438, as authorized.

Application No. 10/707,634

Page 2

three joint inventors. In response, on May 6, 2004, the Office mailed a "Notice of Incomplete Reply (Nonprovisional)," stating that applicants' reply of April 23, 2004 had been entered into the application; however, the signature of Alex Subirates Sole was missing. The period for reply remained as set forth in the Notice of March 5, 2004. Extensions of time to reply were available.

On May 23, 2004, applicants filed the present petition. In the Statement of Facts, Bruce E. Harang states the assignee's Spanish patent counsel couriered a letter requesting Sr. Subirates Sole to execute a declaration for the above-identified application. The letter was returned as undelivered. A second copy of the letter was delivered to Sr. Subirates Sole on May 5, 2004, but he refused to respond. A copy of the front and back of the delivery confirmation receipt and copies of emails between Mr. Harang and the Spanish patent counsel are included with the present petition.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicants lack item (1) as set forth above.

As to item (1), it is unclear from the record whether Sr. Subirates Sole was presented with the complete application papers. Unless Sr. Subirates Sole was presented with a complete copy of the application papers, including the specification, claims and drawings, he could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration that he was given. Accordingly, applicants failed to show or provide proof that the nonsigning inventor has refused to sign the declaration. See MPEP 409.03(d). To show that the inventor has refused to join in the application, applicants must show that complete copies of the application papers, including the specification, claims and drawings, were presented to Sr. Subirates Sole, personally or through his designated representative, and that he did not respond to the request that he sign the declaration.

Further correspondence with respect to this matter should be addressed as follows and to the attention of **Christina Tartera Donnell, Senior Petitions Attorney:**

Application No. 10/707,634

Page 3

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



BRUCE E. HARANG
PO BOX 872735
VANCOUVER WA 98687-2735

COPY MAILED

OCT 29 2004

OFFICE OF PETITIONS

In re Application of	:	
Borrego Bel et al.	:	
Application No. 10/707,634	:	DECISION GRANTING STATUS
Filed: December 26, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 813ES	:	
	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed October 4, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Bruce Harang establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center Art Unit 2841 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



Tino K. Adognravi
2509 Queenston Road
Cleveland Heights, OH 44118

COPY MAILED
DEC 13 2006
OFFICE OF PETITIONS

In re Application of :
Tino K. Adognravi :
Application No. 10/707,636 :
Filed: December 29, 2003 :
Title: Beat Balls :

DECISION ON PETITION

This is in response to the communication filed November 6, 2006, which is being treated as a petition to withdraw the holding of abandonment.

On April 21, 2006, the Office mailed a nonfinal Office action, which set a three month shortened statutory period to reply. The application became abandoned on July 22, 2006, for failure to submit a timely response to the nonfinal Office action.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to nonreceipt of the nonfinal Office action.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the nonfinal Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the nonfinal Office action of April 21, 2006, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after April 21, 2006, to demonstrate nonreceipt of the

nonfinal Office action. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from petitioner, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO is kept; however, the nonfinal Office action was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after April 21, 2006; the period when he would have received the nonfinal Office action.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the nonfinal Office action. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the nonfinal Office action accompanies this decision for petitioner's convenience.

Any request for reconsideration of the dismissal of the petition to withdraw the holding of abandonment due to nonreceipt of the nonfinal Office action must be submitted within **TWO (2) MONTHS** from the mailing date of this decision. The request for reconsideration should include a cover letter entitled "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment," as well as statements and documentary evidence, as indicate above, to demonstrate nonreceipt of the nonfinal Office action. Extensions of time are permitted under 37 CFR 1.136(a).

ALTERNATIVE VENUE

Petitioner is encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181.

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), **\$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 was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the \$750.00 petition fee.

Petitioner may wish 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 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.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) – Form PTO/SB/64, Privacy Act Statement, and a copy of the nonfinal Office action dated April 21, 2006.

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.

[Page 1 of 2]

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

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.
10/707,636	12/29/2003	Tino K. Adogravi		1635

7590 04/21/2006
Tino K. Adogravi
2509 Queenston Road
Cleveland Heights, OH 44118

EXAMINER

QIN, JIANCHUN

ART UNIT PAPER NUMBER

2837

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,636

Applicant(s)

ADOGNRAVI, TINO K

Examiner

Jianchun Qin

Art Unit

2837

- 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 _____.
- 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 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 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 19 December 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

Specifically, the oath or declaration is defective because the oath/declaration does not include the signature of the inventor and the date of execution.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include figure number, legends or reference sign(s). See MPEP § 608.02(g).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.

(b) CROSS-REFERENCE TO RELATED APPLICATIONS.

(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.

(d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or

REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a).

"Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(e) BACKGROUND OF THE INVENTION.

Art Unit: 2837

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37

CFR 1.97 and 1.98.

(f) BRIEF SUMMARY OF THE INVENTION.

(g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(h) DETAILED DESCRIPTION OF THE INVENTION.

(i) CLAIM OR CLAIMS (commencing on a separate sheet).

(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A

"Sequence Listing" is required on paper if the application discloses a nucleotide

or amino acid sequence as defined in 37 CFR 1.821(a) and if the required

"Sequence Listing" is not submitted as an electronic document on

compact disc).

4. Specifically, the specification of the disclosure is objected to because it does not include the BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(Currently, paragraph 0001 of the specification looks more like a BRIEF SUMMARY OF THE INVENTION, not a BRIEF DESCRIPTION OF THE DRAWINGS).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 2837

6. Claim 1 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

Claim 1 is narrative in form and replete with indefinite and functional or operational language. It lacks any positive recitation of structure. It is also unclear whether it is a method or product. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Therefore, the claim is examined based on the best interpretation by the Examiner.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Tucker (U.S. Pat. No. 498,753).

Regarding claim 1, Tucker discloses beat balls (B) (see Fig. 2) for an entertaining rhythmic musical toy (Fig. 1; lines 16-20) which allows the player to generate a rhythmic appealing sound similar to that emitted by maracas (lines 24-37).

Art Unit: 2837

Contact Information

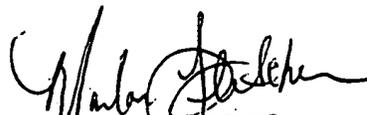
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jianchun Qin whose telephone number is (571) 272-5981. The examiner can normally be reached on 8am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Bradley can be reached on (571) 272-2001. 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).

Jianchun Qin
Examiner
Art Unit 2837

JQ JQ
April 7, 2006


MARLON T. FLETCHER
PRIMARY EXAMINER

Art Unit: 2837

It is deemed that the rest of the claim is a recitation of the intended use of the claimed invention. It would have been obvious to one having ordinary skill in the art at the time the invention was made to produce a drum-like beat generated by knocking sound between the two beat balls upon contact. It has been held that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Prior Art Citations

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1) Young (U. S. Pat. No. 4,090,705) is entitled "Jump Rope".

2) Sapper (U. S. Pat. No. 906,303) is entitled "Jumping rope handle".

3) Marks, deceased et al. (U. S. Pat. No. 4,658,694) is entitled "Percussion noisemaker".



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P.O. BOX 506
MERRIFIELD VA 22116

MAIL

NOV 12 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Chun-Huai Li	:	
Application No. 10/707,646	:	DECISION ON REQUEST TO
Filed: December 30, 2003	:	WITHDRAW AS ATTORNEY
For: PIXEL STRUCTURE OF ACTIVE MATRIX	:	
DISPLAY DEVICE	:	

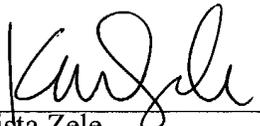
This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

- A grantable request to withdraw as attorney/agent of record must do the following:
- (1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
 - (2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
 - (3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
 - (4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorney/Agent requesting withdraw is not of record.

Further communications will be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.



 Krista Zele
 Special Program Examiner
 Technology Center 2600
 Communications
 (703) 305-4701



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HEISLER & ASSOCIATES
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ROSEVILLE CA 95661

COPY MAILED

JUN 05 2007

OFFICE OF PETITIONS

In re Application of
WILLIAM CHARLES HISCOX
Application No. 10/707,699
Filed: January 5, 2004
Attorney Docket No. 05144.001

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed August 1, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 4, 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 application became abandoned on June 5, 2005. A Notice of Abandonment was mailed on October 7, 2005.

Petitioner seeks revival of the abandonment of the above-identified application under the unintentional standard pursuant to 37 CFR 1.137(b).

STATUTE AND REGULATION

35 USC 41(a)(7) provides:

The Director shall charge the following fees: on filing each petition for the revival of an unintentionally abandoned application for a patent, for the unintentionally delayed payment of the fee for issuing each patent, or for an

unintentionally delayed response by the patent owner in any reexamination proceeding, \$1,500, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be \$500.

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of \$500 or a fee of \$50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of, as here, an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

37 CFR 1.137(b) provides:

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.

OPINION

On October 3, 2005, the inventor and owner of the patent application was informed in an email communication by Michael Greenberg at Greenberg & Lieberman, who was prosecuting his patent application, that due to a switch in the docketing systems at the firm his application became inadvertently abandoned.

On October 4, 2005 dissatisfied with Greenberg & Lieberman, the inventor contacted attorney Bradley P. Heisler¹ (hereinafter "petitioner"), to enlist his services for revival of the abandoned application. Petitioner erroneously informed the inventor that he has "up to one year to revive the application before it becomes more difficult to do so ... [and] suggested that there is not any

¹ A power of attorney to Bradley P. Heisler was filed on August 1, 2006 along with the petition to revive under 37 CFR 1.137(b).

particular time pressure (other than the desire to get the case moving again so that you obtain your patent protection as soon as possible).”² Petitioner then sent a Legal Services Agreement for the handling the revival of the application to the inventor on October 30, 2005 that was signed and returned on January 9, 2006. Petitioner then docketed the revival of the application with a deadline of September 2006 and gave the revival “a relatively low priority”³ due to his misreading of the MPEP regarding abandonments. Petitioner further admits that he had a backlog of other projects/clients that took precedence over the present application. Approximately nine months later, on July 21, 2006 petitioner began work on the present petition for revival and realized his mistake regarding the time period for reviving an abandoned application. He then gave the present application his highest priority, and the resulting petition to revive was received at the USPTO on August 1, 2006.

Petitioner states that the inventor never intended to abandon the application. Petitioner further asserts that from October 4, 2005 until the filing of the petition that neither the inventor nor himself intended to purposely delay the submission of the petition.

The record indicates that petitioner has not met his burden of showing to the satisfaction of the Director that the “entire” delay herein was unintentional within the meaning of 37 CFR 1.137(b).

Petitioner states that the abandoned status of this application was first brought to his attention on October 4, 2005, but rather than then seek immediate revival of this application, petitioner placed the application on “low priority” and purposely delayed the revival of the application for up to one year.

The period from when the abandonment status was first discovered on October 4, 2005 until the filing of the petition to revive on August 1, 2006 cannot be deemed to be “unintentional.” In this regard, note the response to comment 64 contained in the Final Rule Notice, 62 Fed. Reg. at 53161:

an applicant who deliberately delays the filing of a petition under § 1.137 until three months from the mail date of the notice of abandonment (or based upon the one-year anniversary of the date of abandonment) cannot appropriately make the statement that “the delay was unintentional”

Thus, the record clearly shows an intentional delay in the prosecution of this application, and that applicant acquiesced to the abandoned status of this application, which militates away from a finding that the “entire” delay herein was unintentional. That an applicant may have been preoccupied with other matters that took precedence over the revival of an abandoned application is not viewed as an adequate justification for delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Rather, the revival of an application that was not intentionally abandoned is the applicant's “most important business.” See Ex parte Pratt, 1887 Dec. Comm'r Pats. 31, 32-33 (1887). Specifically, an applicant seeking revival of an abandoned application is expected to file a petition under 37 CFR 1.137 promptly after discovering its abandonment See In re Kokaji, 1 USPQ2d 2005, 2007 (Comm'r Pats. 1986); see

² Declaration of Bradley P. Heisler, para. 5.

³ Declaration of Bradley P. Heisler, para. 6.

also Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53161, 1203 Off. Gaz. Pat. Office at 88-89 (response to comment 65).

The Office requires that the entire delay was at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997).

While the "unintentional" delay standard in 37 CFR 1.137(b) is less stringent than the "unavoidable" delay standard in 37 CFR 1.137(a), the Patent and Trademark Office (PTO) has long and consistently held that a delay in seeking revival of an application resulting from a decision to use the revival procedures as an extension of time does not constitute an "unintentional" delay within the meaning of 37 CFR 1.137(b). See Changes in Procedures for Revival of Patent Applications and Reinstatement of Patents; Final Rule Notice, 58 Fed. Reg. 44277, 44278 (August 20, 1993), 1154 Off. Gaz. Pat. Office 35, 36 (September 14, 1993) (an applicant who intentionally delays filing a petition to revive cannot meet the requirement in 37 CFR 1.137(b) for a statement that the delay was unintentional) and Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991) (petitions to revive must be filed promptly after the applicant becomes aware of the abandonment).

Petitioner maintains that the inventor always intended to prosecute this application and petitioner simply placed the prosecution of this application on the "back burner" due to a misinterpretation of the MPEP by the petitioner. The fact that petitioner was in error is immaterial to the finding that petitioner had knowledge of the abandonment and instead of filing a petition to revive promptly, petitioner deliberately chose to delay and "causally pursued" the prosecution of this application⁴. According to In re Application of S, 8 USPQ2d 1630, 1632 (Comm'r Pats. 1988):

petitioner's deliberate deferral in filing a petition under 37 CFR 1.137(b) is an abuse of the procedures set forth in that regulation. The one year time period set forth in § 1.137(b) was never intended to be used an "extension of time" and should not be so used by applicants or the representatives.

The petitioner's error does not excuse the petitioner from the resultant lack of compliance with the conditions of 37 CFR 1.137(b). See Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994). Circumstances resulting from petitioner's failure to exercise diligence in filing a communication to the PTO, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, circumstances which warrant relief from the requirements of 37 CFR 1.137. See Nitto, supra; Huston v. Ladner, 973 F.2d 1564, 1567, 23

⁴ Declaration of Heisler, para. 6.

USPQ2d 1910, 1913 (Fed. Cir. 1992); Vincent v. Mossinghoff, 230 USPQ 621, 625 (D.D.C. 1985). Attention is drawn to Huston, supra:

if we were to hold that an attorney's negligence constitutes good cause for failing to meet a PTO requirement, the PTO's rules could become meaningless. Parties could regularly allege attorney negligence in order to avoid an unmet requirement.

Rather, the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, supra; Vincent, supra; see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987).

DECISION

For the reasons given above, petitioner has not demonstrated to the satisfaction of the Director that the entire delay herein was unintentional within the meaning of 37 USC 41(a)(7) and 37 CFR 1.137(b). Accordingly, this abandoned application will not be revived.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.



Amelia Au
Petitions Examiner
Office of Petitions



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MAILED

FEB - 9 2005

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600**

In re Application of :
Romeo S. Linn, et al. :
Application No. 10/707,714 :
Filed: January 6, 2004 :
For: **OBJECT APPROACHING DETECTION** :
ANTI BLIND E-MIRRORS SYSTEM :

**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 January 7, 2005 and resubmitted on January 23, 2005.

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 a birth certificate which evidences that one of the inventors 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 is being forwarded to the examiner for expedited prosecution.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778



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In re Application of:
Romeo S. Linn, et al.
Application Serial No.: 10/707,714
Filed: January 6, 2004
For: **OBJECT APPROACHING DETECTION
ANTI BLIND E-MIRRORS SYSTEM**

MAILED

JUL 13 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

DECISION
ON PETITION

This is a decision on the petition filed on July 11, 2004, which is treated as a petition to invoke the supervisory authority of the Director in accordance with 37 C.F.R. §1.181. No fee is required.

The petition is **Denied**.

Applicants request the substitution of examiners to examine their application stating "The examiner Mr. Senfi has expressed no more want to do the work for our case. He is too busy for other work. The examiner has difficulty to carry on the examination work for our application in half year, despite our application was in special status since early February 2005."

MPEP §708.02, Petition to Make Special, states in part:...

Applications which have been made special will be advanced out of turn for examination and will continue to be treated as special throughout the entire prosecution in the Office.

MPEP §708 [R-2] · Order of Examination, states in part:...

Nonprovisional applications shall be taken up for examination by the examiner to whom they have been assigned in the order in which they have been filed except for those applications in which examination has been advanced pursuant to 37 CFR 1.102. See 37 CFR 1.496 and MPEP § 1893.03 for the order of examination of international applications in the national stage, including taking up out of order certain national stage applications which have been indicated as satisfying the criteria of PCT Article 33(1)-(4) as to novelty, inventive step and industrial applicability...

The order of examination for each examiner is to give priority to reissue applications and to reexamination proceedings, with top priority to reissue applications in which litigation has been stayed (MPEP § 1442.03)>, < to > ex parte< reexamination proceedings involved in litigation (MPEP § 2261), >and to inter partes reexamination proceedings involved in litigation (MPEP § 2661), < then to those special cases having a fixed 30-day due date, such as examiner's answers and decisions on motions. Most other cases in the "special" category (for example, interference cases, cases made special by petition, cases ready for final conclusion, etc.) will continue in this category, with the first effective U.S. filing date among them normally controlling priority.*

A review of the record reveals that the petition to grant "Special" status to the subject application, filed January 23, 2005, was granted on February 9, 2005. Preliminary amendments were filed on March 22 and April 19, 2005. A notice of Non-Compliant amendment was mailed

on April 26, 2005 and it would appear as though applicant recently, i.e., June 7, 2005, filed another preliminary amendment. An action on the merits has not been mailed.

It is the Office's prerogative to assign applications to examiners without influence from an applicant. Moreover, it is not within an examiner's purview to elect which applications assigned to them, that they will or will not work on.

Therefore, the examiner is hereby directed that the subject application will be the next application that the examiner reviews in accordance with MPEP §708.



Andrew Faile, Acting Director
Technology Center 2600
Communications

Petition to Substitute Examiner Complain to an Examiner

Dear Deputy Commissioner,
Directors of 2600 group,

After suffering the examiner's careless, mean, and retaliation attitude for near a year, who is assigned for our application 10,707,714. we are no longer withstand him, Mr. Behrooz Senfi. We need a new examiner, who is responsible and no personal preference.

Who care ? if the examiner don't care !

The application 10,707,714 we have was filed electronically on Jan 6th 2004. The primary inventor Mr. Ray Spykerman is a 95 years old amazing senior. He is the only survival US navy who serviced in navy national intelligent service during World War II and over 17 years. He invented a driving safety view visual system since year 2000. However, his high age and his health count not make him carry on and finalize the invention project. He asked a versatile inventor, Mr. Romeo Linn's help, who has 4 patent pending applications in the USPTO office now, to carry on the patent application.

We have reminded to the examiner : Time is pressure to a 95 old senior who is weakening and weakening now. There is no too much time left for him to enjoy any beautiful thing in the world, but only expect his invention can be quick approval and let millions and millions of motor vehicles drivers enjoy using his driving safety view visual devices invention.

However, the examiner has a very cool attitude. He don't care, and don't want to communicate with us. Every single time we asked for questions, the answers were near same: " I don't know, you have to asked the Customer Service office."

His negative attitude makes him very slow productivity. And keep us waiting forever. The miserable inventor Mr. Spyerman might not be able to see his application get exam in his life time, if this application did not go petition to make special examination.

Why always tough, apathy, careless attitude? Got spoil ?

Despite the application of us got approval in special examination status, it was never treated as special process at all.

The examiner refuge to change his way, his careless attitude ! Regardless how many times we beg him for help.

After a few months no respond from the examiner, we have to called group directors for help to move on the application processing.

Why mean to us ? What else we can do ?

Mr. Behrooz Senfi was so mad, after he got to know from someone that we called group directors for help. He threw a word to us when we called him for progress: " You let the whole department know about this. I am not going to work on your case any more. You find other people do it."

We were shocked ! We really don't know what else we can do ? It was a long silent after that. We lost value time on endless waiting.

5 months pasted, after the application was granted as special. Not thing happen ! we feel like got abandon.

We have to submitted a request to a group director to switch examiner.

It was sad ! the request got turndown. However, it did drag attention. Just a week after, an Official Action was mail out from the examiner.

Why retaliate to customer ?

The Office Action gave us good news and bad news. Good news is to get it after 16 months waiting with tremendous contacts effort. Bad news is that all claims, all drawings, and abstraction, of the application got rejected. The whole specification have to be re-write. We got to start over !

That is OK to redo that . But we really need help and guiding from the examiner to avoid reject again next time, since we got only a chance.

We need to learn independent claims and dependent claims format layout, and find the regulation of claims format for further study. For all these, just a little bit guiding would help us a lot, and would save us tremendous time and effort.

However, the examiner refused to help us, not even a little bit. He left us only a totally negative letter of Office Action and a due day. His negative attitude make us trembling fearful, depressive and feel no hope ! We feel the application still get turn down regardless how perfect we can make.

We had tremendous hard time to comprehend his negative words in the office action over and over while having no further explanation and assisting from the examiner.

Why set customer up ? and let omit the due day ?

We have to take triple time and effort to study regulation of claim writing, then re-write the claims. We almost run out of the 3 months time period given by the examiner. By the last week before due, we contacted the examiner whether we can extend the due day if we do not get enough time to re-write the claims.

He responded : "Yes, you can extent it, you can extant as much time as you need." We then feel relief a bit. But still try to catch the due day. Because he stressed the 3 months response period is not extendable in the Office Action. That is mismatch what he said.

On day 17th, before the due day October 18th, We contacted the examiner and had him pick up e-mail that we sent for the ABX version re-written specification. and we wanted him send a response to tell if that written format is ok.

We were surprised for his respond: "You have to send it by the way you filed this application to. Don't send to me, I don't take it !"

"We filed it by e-PAVE- electronic on line. But electronic filing dose not support amendment file submission . You are our examiner, you are the one to read this article, why don't just take our e-mail with the ABX file direct? The ABX file can be save in PTO database directly without your re-type the whole article."

"I don't take it ! I will delete it if you send it by e-mail! " he threw hard words to us.

" What ?!" "Can you just forward the ABX file to someone in some department who files document ? "

" I don't have time to do that, you have to file it by mail" he said.

"where should we send to ?" We asked,

"You have to go USPTO web site to find the mailing address. " He said.

"The website is so large, we had difficulty to location the specific mailing address for the office action response . Besides, the website mailing address is a general mail box, We lost an amendment mail to the general mail box last year. Can you give us a specific mailing address for this urgent document ?"

" I got a lot work to do, you have to find the address yourself !" he said.

Not intention to let us skip the due day ?

" We have only half day before due, If we mailed to a wrong address, and cause delay, we would missed the due day, and lost the case."

"That is your problem, not my problem!" he kicked back.

"Can you tell us how to extend the due day ? if we could not make it by tomorrow due day." we asked.

"Talk to the customer service office, I don't have time to talk longer on phone!" He said.

"You are the one to exam this document. You set the due for us. If you don't want to take our document directly, if you don't have time for this or that, why don't you do us a favor to pass this application to other examiner and free your time ?" we said.

"OK! but it's not my decision. You need to talk to my supervisor for that." He said.

We were really frustrated ! Didn't know why he treat us like this? So much worry for future, So many question marks ??? and didn't know what to do next. Not thing is settled down, while the due day is in pressure to us.

We have no choice but to call and get help from directors in group 2600.

Different people produces different result !

Thanks to the director Mr. Andrew Faley, He rescued our application.

He gave us a mailing address specifically for amendment documents corresponding ;

He explained to us there is a fee charge to extend 3 months Office Action response period time. This info is so critical, and obviously not a wise option. Why the examiner did not tell us up front ? when he said it's extendable.

Director Mr. Faile reminded us twice: " make sure to mail out a response document before the due day". The examiner who set the due day for us, did not even remind us anything ! Why ?

We would have skipped the due day, If we believed what the examiner said extendable, and would lost the \$95,000 investment on the patent pending project.

The director answered us quite a few questions, such as: do not use color picture, drawing illustration need black & white etc. we never hear similar instruction from the examiner.

Thanks to the director. Without him, we must have miss the due day, and lost the application already.

A careless examiner can make an individual applicant bankruptcy !

Inventors, customers always regards an examiner in USPTO like a scientist or a professor, having broad knowledge in science , high educated, courtesy, great responsible, so that to make a holly judgment to each technology application whether it's qualify an invention or not.

Behind each pending application, massive capital and loan investment, years of time, effort, intensive research labors are involved.

Behind each individual inventors, they have limited saving, and are fragile in finance. They have to obtain a patent approval within a critical project life period, before the pending invention can be passed to a large manufacturer for massive production, then to get the investment return. If not , a little unexpected mistake due to mishandling the application, might wipe out the whole invention project, and cause the inventors bankruptcy !

If an examiner keep so careless, reject attitude, with his personal preference to treat an intellectual property application, the application would get fail before it is fair exam. A huge financial lost will happen in the applicants side.

So far, the 10,707,714 invention project has drag us over \$ 95,000 capital and near 4 years work.

Unaware spoiled employee's attitude .

PTO office has so rapid growing business due to rapid growing of variety technologies. PTO need more man power to do the examination work, thus employee's qualification level got lower. High education background, talent, integrity, passionate to work, and courtesy to help people, responsible. All these factors were ignored.

"Over workload" is a common excuse to ignore monitoring each employee performance and checking customer service satisfaction ratio. That lead to spoil some employee's careless, mean, non-responsible, apathy, destructive retaliation attitude, especially to whom act himself like a king !

Examiner's careless fault might ruin the well know reputation of USPTO.

No hope! unless different examiner !

"People don't change !". We have suffered such mean, retaliation, stubborn mind examiner near a year. The longer we stay with him, the more time lost and effort wasted !

Besides, PTO keep an examiner working on something he doesn't want to do, the result will be mess-up !

We beg for equal opportunity, fair examination, no personal preference, effective !

The 95 years old senior beg you.

Inventor Applicants :

Ray Spykerman

Romeo Linn

Tel: 408- 432-1888



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JAN 12 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Romeo S. Linn, et al.
Application Serial No.: 10/707,714
Filed: January 6, 2004
For: **OBJECT APPROACHING DETECTION
ANTI BLIND E-MIRRORS SYSTEM**

DECISION
ON PETITION

This is a decision on the petition filed on November 7, 2005, which is treated as a petition to invoke the supervisory authority of the Director in accordance with 37 C.F.R. §1.181, and in essence, requests reconsideration of the Director's earlier decision. No fee is required.

Applicants again request the substitution of examiners to examine their application stating of the current examiner "...the examiner has a very cool attitude", "He don't care, and don't want to communicate with us", "His negative attitude makes him very slow productivity", "'Over workload' is a common excuse to ignore monitoring each employee performance and checking customer service satisfaction ratio. That lead to spoil some employees' careless, mean, non-responsible, apathy, destructive retaliation attitude, especially to whom act himself like a king", etc.

The aforementioned comments all reflect applicants' perception of the examiner, the examiner's attitude or applicants' opinions of the Office in general. However, the aforementioned remarks do not point to any specific error with respect to the examiner's examination of the subject application.

A review of the record reveals that the petition to grant "Special" status to the subject application, filed January 23, 2005, was granted on February 9, 2005. Preliminary amendments were filed on March 22 and April 19, 2005. A notice of Non-Compliant amendment was mailed on April 26, 2005. On June 7, 2005, applicants filed another preliminary amendment. An action on the merits was mailed July 18, 2005. Subsequent to the non-final Office action, an amendment was filed on October 17, 2005, another on October 20, 2005 and the subject petition on November 7, 2005.

With respect to applicants' comments regarding a "retaliation attitude", the sole Office action accurately reflected the informal nature of applicants' specification and claims. The Office action even noted the fact that it was apparent that applicants were unfamiliar with patent prosecution and recommended applicants seek the assistance of a registered patent attorney. Otherwise, an Office action addressing applicants' latest amendment has not been mailed. Therefore, there is no evidence of an alleged "retaliation attitude" to warrant a new examiner.

With respect to applicants' comments regarding slow productivity, each correspondence that applicants submit to the Office must be considered in turn. Between the mailing of the petition decision granting the subject application special status and the mailing of the non-final Office action, three different amendments were submitted by applicants. Subsequent to the non-final

Office action of July 18, 2005, applicants have submitted two amendments and the subject petition. Applicants' initial response of October 18, 2005 initiated the time period for examiner's response. However, the subject petition requires review and decision, before the next Office action can be mailed. Therefore, there is no evidence that the examiner of record has purposely delayed action on the subject application.

Therefore, applicants' allegations of a "retaliation attitude" and purposely delaying action on the subject application, are unfounded.

As indicated in the petition decision mailed July 18, 2005, it is the Office's prerogative to assign applications to examiners without influence from an applicant. Also, as indicated in the examiner's initial Office action, it is apparent that applicants are unfamiliar with patent prosecution. While applicants may prosecute an application on their own, the patent application process is complex. Failure on an applicant's part to comply with various rules and/or requirements, may result in delays in prosecution, greater expense and potentially result in abandonment of the application. Unfamiliarity with patent prosecution could also lead to frustration and misperception on an applicant(s) part, regarding the handling of their application.

In the instant application, a cursory review of applicants' recent amendments reveal submissions which contain, for example, non-compliant amendments with respect to rules 37 C.F.R. §§1.121 and 1.125, a substitute specification which does not have a detailed description (i.e., enabling one skilled in the art to make and/or use the invention as required by 35 U.S.C. §112, 1st paragraph) and claims with either functional language (e.g., "Whereby said micro front end module, a key visual component of the Owl's eye camera, has the smallest dimensions in the world among all water proof safety view precision cameras", claim 5), combination of two statutory classes (i.e., a method of mounting/tilting cameras {see claims 11 and 12} within an optoelectronic visual system {claim 1}) or claims having "optional" limitations (e.g., see claim 16), thus not satisfying 35 U.S.C. §112, 2nd paragraph.

Appointment of a new examiner would not cure the deficiencies noted above, but would only foster applicants' opinion of a "retaliatory" attitude within the Office, given that more than likely, the next Office action will appropriately be held as a "final" Office action as a result of applicants amendments.

Therefore, given the lack of evidence that the examiner has erred in the handling of the subject application, the petition is **Denied**.

Petitioners also refer to a telephone conversation between applicants and the examiner on October 17 regarding submission of applicants' re-written specification and the examiner's refusal to accept the submission via e-mail. According to the statement in the subject petition "We were really frustrated!".

From the dialog presented by petitioners, it is apparent that applicants were insistent that the examiner accept an e-mail submission. However, examiners are prohibited from accepting official papers relating to a pending application, see MPEP §502 excerpted below. All official communication must either be mailed to the Office's correspondence address (see MPEP §501, excerpted below), faxed to the Office's central fax number (571-273-8300) or hand delivered to the Office's walk-up window (see MPEP §502 excerpted below).

MPEP §501 [R-3] Filing Papers With the U.S. Patent and Trademark Office,
states in part:

37 CFR 1.1. Addresses for non-trademark correspondence with the
United States Patent and Trademark Office. **>

(a) In general. Except as provided in paragraphs (a)(3)(i), (a)(3)(ii) and (d)(1) of this section, all correspondence intended for the United States Patent and Trademark Office must be addressed to either "Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450" or to specific areas within the Office as set out in paragraphs (a)(1), and (a)(3)(iii) of this section. When appropriate, correspondence should also be marked for the attention of a particular office or individual.<

(1) Patent correspondence .

(i) In general . All correspondence concerning patent matters processed by organizations reporting to the Commissioner for Patents should be addressed to:

Commissioner for Patents,
PO Box 1450,
Alexandria, Virginia 22313-1450.

I. GENERAL MAILING ADDRESSES

The U.S. Patent and Trademark Office (Office) has three separate general mailing addresses. The addresses are as follows:

A. For Patent Applications and Patent-Related Papers

Correspondence in patent-related matters under the direction of the Commissioner for Patents should be addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Such correspondence includes: patent applications, replies to notices of informality, requests for extension of time, notices of appeal to the Board of Patent Appeals and Interferences (the Board), briefs in support of an appeal to the Board, requests for oral hearing before the Board, >applications for< extensions of term of patent, requests for publication of Statutory Invention Registration (SIR), requests for reexamination, statutory disclaimers, certificates of correction, petitions to the Commissioner for Patents, submission of information disclosure statements, petitions to institute a public use proceeding, petitions to revive abandoned patent applications, and other correspondence related to patent applications and patents which is processed by organizations reporting to the Commissioner for Patents...

MPEP §502 [R-3] Depositing Correspondence, also states in part:...

All applications (provisional and nonprovisional) may be sent to the U.S. Patent and Trademark Office by mail (see MPEP § 501), or they may be hand-carried to the Customer >Service< Window. >New utility patent applications and provisional applications can also be filed via the Office's Electronic Filing System (EFS). See MPEP § 1730, subsection II.B.< A continued prosecution application (CPA) filed under 37 CFR 1.53(d) (available for design applications only), amendments, and other papers may be sent to the U.S. Patent and Trademark Office by mail (see MPEP § 501), by facsimile (see MPEP § 502.01) or hand-carried to the Customer >Service< Window.

Any correspondence sent to the U.S. Patent and Trademark Office should include the sender's return address and ZIP Code designation. For correspondence hand-delivered to the Office, see subsection II. below...

II. HAND-DELIVERY OF PAPERS

No official paper which relates to a pending application may be personally delivered to a TC except papers that are directed to an

application subject to a secrecy order pursuant to 35 U.S.C. 181, or are national security classified and that are directed to Licensing and Review. Effective December 1, 2003, all official patent application related correspondence for organizations reporting to the Commissioner for Patents (e.g., TCs, the Office of Patent Publication, and the Office of Petitions) that is hand-carried (or delivered by other delivery services) must be delivered to the Customer >Service< Window, with a few exceptions. [emphasis added]

III. HAND-DELIVERY OF PAPERS

Patent-related papers ** may be hand-carried to the Office. If the correspondence is hand-carried to the Office, >with limited exceptions (see subsection I.A., above)< it must be delivered to**:

**>
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314<

All mailed communications are received by the Incoming-Mail Section of the Office of Initial Patent Examination (OIPE), which opens and distributes all official mail. [emphasis added]

It is apparent that the examiner's proper refusal to accept the formal submission via e-mail, and applicants' unfamiliarity with the rules that prohibit examiner's from receipt of such communication, directly contributed to applicants admitted frustration.

However, although applicants have failed to successfully justify the need for a different examiner, applicants have raised concern with respect to the level of customer service provided. Applicants are welcomed to contact the examiner's immediate supervisor, Mehrdad Dastouri at (571) 272-7418 regarding any future concerns.

The application file will be delivered to the examiner for action on the amendment submissions of October 17th and October 20th.



Andrew Faile
Director, Technology Center 2600



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HONIGMAN MILLER SCHWARTZ & COHN LLP
38500 WOODWARD AVENUE
SUITE 100
BLOOMFIELD HILLS MI 48304-5048

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JUL 09 2008

In re Application of :
Hentschel et al. :
Application No. 10/707,733 :
Filed: January 8, 2004 :
Attorney Docket No. 209413-83524 :

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 22, 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 3628 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

MAIL

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

JUL 22 2004
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Application No. 10/707,734
Filed: 1/8/04

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

- A grantable request to withdraw as attorney/agent of record must do the following:
- (1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
 - (2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
 - (3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
 - (4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

The requester, Mr. Michael Mord Lewis, is not of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.



Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 04/21/2010

Applicant : Gary L. Sugar : DECISION ON REQUEST FOR
Patent Number : 7636554 : RECALCULATION of PATENT
Issue Date : 12/22/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/707,744 : OF WYETH AND NOTICE OF INTENT TO
Filed : 01/08/2004 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1406** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 05/18/2010

Applicant	: Gary L. Sugar	: NOTICE CONCERNING IMPROPER
Patent Number	: 7636554	: CALCULATION OF PATENT TERM
Issue Date	: 12/22/2009	: ADJUSTMENT BASED UPON USPTO
Application No	: 10/707,744	: IMPROPERLY MEASURING REDUCTION
Filed	: 01/08/2004	: 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 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 **1446** 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).



DYKEMA GOSSETT PLLC
2723 SOUTH STATE STREET
SUITE 400
ANN ARBOR, MI 48104

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APR 07 2008

In re Application of :
Gerald Schultz :
Application No. 10/707,760 :
Filed: January 9, 2004 :
Attorney Docket No. 65271-028 (135556) :

OFFICE OF PETITIONS

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 28, 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 Richard H. Tushin on behalf of all attorneys of record who are associated with customer No. 36682.

All attorneys/agents associated with the Customer Number 36682 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 is an outstanding Office action mailed February 5, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.



April M. Wise
Petitions Examiner
Office of Petitions

cc: DR. GERALD SCHULTZ
1386 BEACON STREET
APT. #7
BROOKLINE, MA 02446

cc: GENERAL ELECTRIC CO.
GLOBAL PATENT OPERATION
187 DANBURY ROAD
SUITE 204
WILTON, CT 06897-4122



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/707,760	01/09/2004	GERALD SCHULTZ	65271-028 (135556)

CONFIRMATION NO. 1759

POWER OF ATTORNEY NOTICE



36682
DYKEMA GOSSETT PLLC
2723 SOUTH STATE STREET
SUITE 400
ANN ARBOR, MI 48104

Date Mailed: 04/07/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/28/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199



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General Electric Company
GE Global Patent Operation
P.O. Box 861
2 Corporate Drive, Suite 648
Shelton, CT 06484

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JAN 02 2009

OFFICE OF PETITIONS

In re Application of
Gerald Schultz
Application No. 10/707,760
Filed: January 9, 2004
Attorney Docket No. 135556-1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 5, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 6, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$1620, and (3) a proper statement of unintentional delay.

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 \$1110 extension of time fee submitted with the petition on November 13, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 1795 for appropriate action by the Examiner in the normal course of business on the reply received.

A handwritten signature in black ink that reads "Ramesh Krishnamurthy". The signature is written in a cursive style with a large, looping initial 'R'.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



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Paper No.

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MAR 27 2009

OFFICE OF PETITIONS

MARKUS HILDINGER
CRANACHWEG 8
PFORZHEIM 75173 DE GERMANY

In re Application of :
Markus Jildinger et al. :
Application No. 10/707,770 : DECISION ON PETITION
Filed: January 11, 2004 : PURSUANT TO
Attorney Docket No.: MP3 : 37 C.F.R. § 1.137(A)
Title: METHOD AND SYSTEM FOR :
SELLING AND/ OR DISTRIBUTING :
DIGITAL AUDIO FILES :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(a), submitted on March 9, 2009.

This petition is **GRANTED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 21, 2008, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 22, 2008. A notice of abandonment was mailed on January 22, 2009.

ANALYSIS

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(1);
- (3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;
- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has included, *inter alia*, the petition fee and an amendment.

Requirements (1) - (3) of Rule 1.137(a) have been satisfied. The fourth requirement is not applicable, as a terminal disclaimer is not required.¹

Petitioner has alleged that a response was timely filed on May 14, 2008. Petitioner has further included an Electronic Acknowledgment Receipt which evinces that an "Applicant Arguments/Remarks Made in an Amendment" was received on May 14, 2008.

The electronic file has been reviewed, and a response to the non-final Office action has been located in the same, consisting of a cover sheet and nine pages of remarks, along with a cover sheet and twelve pages of claims. The Electronic Acknowledgment Receipt described in the preceding paragraph has also been located.

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 response was timely submitted on May 14, 2008.

CONCLUSION

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of

¹ See Rule 1.137(d).

this decision, so that the amendment that was received on May 14, 2008 can receive further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

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 the undersigned at (571) 272-3225.²

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: MARKUS HILDINGER
GAERTNERSTR. 5
8008 ZURICH
SWITZERLAND

² Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.



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FROM DIRECTORS OFFICE

JUL 12 2005

TECHNOLOGY CENTER 3600

VALENTIN SHUSTOV
2423 Foothill Blvd., #B 202
La Crescenta, CA 91214

In re application of
Valentin Shustov
Application No. 10/707,788
Filed: January 12, 2004
For: EARTHQUAKE PROTECTOR

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(APPLICANT'S AGE)**
:

This is a decision on the petition submitted on June 27, 2005, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

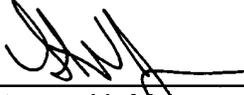
An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of a driver's license for Mr. Shustov 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
Patent Technology Center 3600
(571) 272-6611

SNM/pav: 07/06/05



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Valentin Shustov
#B103
2423 Foothill Blvd.
La Crescenta, CA 91214

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OCT 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Valentin Shustov	:	
Application No. 10/707,788	:	ON PETITION
Filed: January 12, 2004	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on June 5, 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 final Office action mailed October 18, 2005. A Notice of Abandonment was mailed on April 24, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

With respect to item (1), the record fails to show that petitioner submitted the required reply to the final Office action mailed October 18, 2005. Therefore, revival of the above application cannot occur until a response to the final Office action has been received.

Petitioner should note, that 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)

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JUN 19 2007

In re Application of
Valentin Shustov
Application No. 10/707,788
Filed: January 12, 2004
Attorney Docket No. N/A

OFFICE OF PETITIONS
ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed by facsimile transmission on December 11, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed October 18, 2005. A Notice of Abandonment was mailed on April 24, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on December 6, 2006, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A courtesy copy of the Advisory Action is being mailed with this decision on petition.

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.

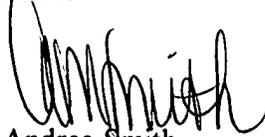
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
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The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/707,788	Applicant(s) SHUSTOV, VALENTIN	
	Examiner Phi D. A	Art Unit 3637	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 December 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.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of 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: _____.

PA 06/13/07

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Lanna Mai

Continuation of 3. NOTE: there are substantial changes in claim 1 compared to the claim filed of 1/12/04 which is the claim pending; the submitted claim needs to reflect any changes from that claim.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.	Applicant(s)	
10/707,788	SHUSTOV, VALENTIN	
Examiner	Art Unit	
Phi D. A	3637	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

The amendment document filed on 11 December 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- 1. Amendments to the specification:
 - A. Amended paragraph(s) do not include markings.
 - B. New paragraph(s) should not be underlined.
 - C. Other _____.
- 2. Abstract:
 - A. Not presented on a separate sheet. 37 CFR 1.72.
 - B. Other See Continuation Sheet.
- 3. Amendments to the drawings:
 - A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - C. Other _____.
- 4. Amendments to the claims:
 - A. A complete listing of all of the claims is not present.
 - B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - D. The claims of this amendment paper have not been presented in ascending numerical order.
 - E. Other: See Continuation Sheet.
- 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

- 1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
- 2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Sharain Moreland
Legal Instruments Examiner (LIE), if applicable

571-272-6612
Telephone No.

Continuation of 2(b) Other: the changes in the abstract are not marked as deleted [], or underline for new insertion.

Continuation of 4(e) Other: the changes in the claims need to be marked with underlined or delete [] .